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FISCAL YEAR 1986 BUDGET REVIEW

HEARINGS

BEFORE THE

COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

FEBRUARY 20, 21; MARCH 7, 8, AND 14, 1985

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FISCAL YEAR 1986 BUDGET REVIEW

WEDNESDAY, FEBRUARY 20, 1985

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 9:08 a.m., in room SD-406, Dirksen Senate Office Building, Hon. Robert T. Stafford (chairman of the committee) presiding.

Present: Senators Stafford, Chafee, Domenici, Bentsen, Burdick, Moynihan, Mitchell, Baucus, and Lautenberg.

ENVIRONMENTAL PROTECTION AGENCY

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator **STAFFORD**. Good morning. The Committee on Environment and Public Works will please come to order.

The purpose of the hearing, this morning, is to review the status of the Environmental Protection Agency's programs and examine the adequacy of resources made available to the agency in the President's fiscal year 1986 budget.

We will examine both the broad sweep and specific elements of the administration's budget proposal. The President's overall budget proposes termination of many nondefense domestic programs and significant reductions in others.

Compared to those proposals, the funding request for the Environmental Protection Agency is a clear indication that the administration recognizes both the importance of, and support for, programs that protect human health and the environment.

However, we must compare this year's funding proposal not only with those of other programs but also with past EPA funding levels, with the resources needed by the agency to carry out the law.

Some analysts have noted that we are just now returning to funding levels of 4 and 5 years ago, without taking into account either inflation or the increased workload placed on the agency by law.

Today we will examine the proposed modest increase in the agency's operating budget to determine whether the resources will be adequate to carry out the agency's ongoing responsibilities as well as to undertake new activities required by the recently enacted Hazardous and Solid Waste Amendments of 1984.

With respect to the Superfund Program, I can say that this Senator believes the administration's proposed funding level of $900 million for fiscal year 1986 and its intended average level of $1.1 billion per year for 5 years is inadequate, but the Chair will say he is encouraged by the general attitude with respect to this program.

The Environment and Public Works Committee will take up the extension and amendment of the Superfund law this week. Without any expansion of the existing program, I am convinced we will need a minimum of $1.5 billion annually to begin to respond adequately to releases of toxic substances in the environment. The committee has discussed this issue with Mr. Thomas before and, I am sure, will be doing so again even after today.

Finally, with respect to the administration's proposal for the construction grant program, freezing the level of that program can perhaps be done without seriously damaging progress toward acceptable water quality. However, a quick phaseout of the Federal program could undo water quality gains laboriously achieved over the last 13 years.

My goal for EPA is the same today as it was when I joined the committee in 1971: To assure that the agency has the money it needs, the people it needs, and the laws it needs to protect the health and welfare of the people of this country.

I recognize that Mr. Thomas is a member of the administration. I fully expect that he will defend the budget submitted by the administration to the Congress. However, I hope that he will also assist the committee--and I believe he will—in evaluating how well this budget addresses the legislative requirements mandated by the Congress.

Ultimately, I hope the funding level recommended by this committee and approved by Congress will be no less than that needed by EPA to carry out one of the most important functions of any Federal agency—protection of health and the environment for this and future generations.

Now, without objection, the Chair will provide that other opening statements be placed in the record at this point.

[Statements of Senators Bentsen, Mitchell, and Lautenberg follow:]

Senator Lloyd Bentsen
EPA Budget Hearing
Opening Statement

February 20, 1985

I want to welcome Administrator Thomas back before the Committee in his first appearance as Administrator of the Environment Protection Agency. I hope this will be the first of many productive meetings.

I noted with interest that the FY 1986 budget proposal exceeds the FY 81 operating level for the first time, reflecting as it does increases for RCRA implementation and acid rain research. However, the budget also reflects some rather large reductions in other areas and it does not appear to account for inflation and additional responsibilities. I am sure we will be discussing this in the days and weeks to come.

It seems to me that two points in the proposal will require close scrutiny:

First, what are the effects on other program needs of reprogramming of appropriated funds for the current fiscal year to support implementation of the Hazardous and Solid Waste Amendments of 1984?

Secondly, the recission proposal will have to be reviewed in some detail.

There are other important policy proposals that Committee will want to know about--the phasing out of Construction grants by 1990 and the 30 percent reduction to the exploratory grants and research center program.

Generally speaking, the operating budget proposal comes as a relief to many of us who have heard rumors of what was in store, but as you well know this Committee will want to go into great detail on the effects of the budget proposal on individual programs.

I look forward to your presentation and to your assistance as we examine these proposals in the days to come.

Opening Statement of
Senator George J. Mitchell

Environment and Public Works Committee
Environmental Protection Agency Budget Hearing
February 20, 1985

I welcome this opportunity to review in detail the proposed FY 1986 budget for the Environmental Protection Agency.

While the EPA budget of over four billion dollars is not large by Federal standards, the programs and projects implemented by the EPA are of vital importance. We rely on these programs to protect public health and to assure the chemical and biological integrity of air, land, and water. Time and again we see in public opinion polls that Americans rank protection of the environment as one of the major responsibilities of government. My meetings with the citizens of Maine confirm these poll results.

I would like to congratulate EPA Administrator Lee Thomas and former Administrator Bill Ruckelshaus on presentation of a balanced and responsible budget for the EPA in FY 1986. This is a substantially better proposal than in previous years. Although I have some concerns with the proposal, I believe it is a more reasonable compromise between the current need for fiscal restraint and the growing responsibilities of the Agency than we have been presented with in recent years.

While the FY 1986 EPA budget proposal is basically sound, it is worth remembering the broader context of the Federal government commitment to environmental protection. The proposed budget provides an eight percent increase over the FY 1985 budget. In inflation adjusted dollars, however, the Federal government is making a financial investment about equal to the investment it made in 1979. We are making a comeback from some very lean years in environmental protection, but we still have not reestablished our previous level of financial support for these vital programs.

In addition, I think we all recognize that we face increasingly complex pollution problems. We need to be sure that, in our determination to control spending, we do not ignore emerging pollution problems. We must guard against being "penny wise and pound foolish."

In considering our needs for enivronmental protection, we must look for guidance to the Administrator of the EPA. I am glad that Mr. Thomas is here today to discuss the Administration's proposed budget with us.

Opening Statement of

Senator George J. Mitchell

Environment and Public Works Committee

Environmental Protection Agency Budget Hearing

February 20, 1985

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In considering our needs for enivronmental protection, we must look for guidance to the Administrator of the EPA. I am glad that Mr. Thomas is here today to discuss the Administration's proposed budget with us.

Frank R. Lautenberg

STATEMENT BY SENATOR FRANK R. LAUTENBERG
Senate Environment and Public Works Committee
EPA Fiscal Year 1986 Budget
February 20, 1985

THANK YOU, MR. CHAIRMAN.

WELCOME, LEE. I HAD PLANNED TO QUESTION YOU ON SOME WATER QUALITY ISSUES TODAY...ISSUES THAT ARE VERY MUCH ON MY MIND. THE NEED FOR EPA TO FINALIZE ITS DECISION TO CLOSE THE 12 MILE SLUDGE DUMP SITE. AND EPA'S BUDGET PROPOSALS ON SEWAGE TREATMENT CONSTRUCTION GRANTS.

HOWEVER, YESTERDAY, LATE IN THE AFTERNOON, I WAS SHOCKED TO HEAR THAT YOU ANNOUNCED THAT EPA HAD ESSENTIALLY CLOSED THE BOOKS ON WESTWAY. THIS ANNOUNCEMENT CAME ONLY WEEKS AFTER YOUR REGIONAL ADMINISTRATOR RECOMMENDED THAT THE CORPS OF ENGINEERS REFUSE TO ISSUE THE PERMIT NECESSARY TO BUILD WESTWAY.

ADMINISTRATOR DAGGETT TOOK THIS POSITION--IN PLAIN LANGUAGE--BECAUSE HE FELT THE WESTWAY PROJECT WOULD VIOLATE THE BASIC ENVIRONMENTAL PROTECTIONS CONTAINED IN THE CLEAN WATER ACT.

YOU KNOW OF MY CONCERN ABOUT WESTWAY. I UNDERSTAND THAT MANHATTAN NEEDS A NEW ARTERY TO REPLACE THE WESTSIDE HIGHWAY. THAT IS NOT IN DISPUTE. MY INVOLVEMENT WITH WESTWAY STEMS FROM MY CONCERN THAT WESTWAY COULD JEOPARDIZE FUTURE ECONOMIC DEVELOPMENT ALONG THE NEW JERSEY WATERFRONT. ASSESSMENTS OF THE DAMAGE THAT WOULD RESULT TO THE STRIPED BASS ALSO TROUBLE ME. THE BASS HAVE BEEN A VALUABLE RECREATIONAL AND COMMERCIAL RESOURCE.

LEE, WHEN IT IS MY TURN FOR QUESTIONING, I INTEND TO PURSUE THIS ISSUE WITH YOU. I WOULD ALSO HOPE TO SECURE A COMMITMENT FROM YOU ON YOUR PLANS FOR CLOSING THE 12 MILE SLUDGE DUMP SITE OFF NEW JERSEY'S SHORES.

Senator STAFFORD. The Chair would recognize Senator Chafee.

Senator CHAFEE. I have no statement, Mr. Chairman.

Senator STAFFORD. Thank you, Senator Chafee.

Senator Burdick.

Senator BURDICK. I have no statement.

Senator STAFFORD. All right. There being no further opening statements at this time, reserving, as I said, the right of Senators to enter them if they wish later, we will turn right to you, Mr. Thomas, and hear your statement.

STATEMENT OF HON. LEE M. THOMAS, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, ACCOMPANIED BY A. JAMES BARNES, ACTING DEPUTY ADMINISTRATOR

Mr. THOMAS. Thank you, Senator.

Senator Stafford, I have a statement which I would ask you to enter for the record. I, in turn, would take my time and summarize that statement and present an overview for the committee of our fiscal year 1986 budget, and then allow the maximum amount of time for responding to questions that you may have.

Senator STAFFORD. That is very well. Without objection, your full statement will appear in the record.

Mr. THOMAS. Thank you, sir.

I have with me today at the table Jim Barnes, the Acting Deputy Administrator, and behind us we have the Assistant Administrators and their staffs, so we will try to be as responsive as possible to the specific questions the committee may have.

Let me turn and ask you to look with me at the charts here on my left as I present to you an overview of our fiscal year 1986 budget.

As you indicated in your opening statement, I do feel as if the fiscal year 1986 budget for EPA that the President has presented to Congress is a strong budget. It reflects this administration's commitment to environmental progress. Overall, we have asked for $4.67 billion and over 13,000 work-years. This is an increase of almost $340 million from fiscal year 1985 and over 500 work-years from fiscal year 1985.

This will allow us to maintain the strong momentum we have in our various programs and increase substantially the commitment required to our Superfund Program, our RCRA hazardous waste program, reflective of the reauthorization of that bill that Congress enacted last year, and also initiatives in the research area specifically related to acid rain and several other areas. I would like to talk about these with you today.

But first, turning to where we are with people at EPA, clearly, our most valuable resource and our primary resource for moving forward with the responsibilities we have in the Agency, the 1986 budget proposal reflects a continued increase in resources. As you can see from this chart, both in our operating programs and in our Superfund Program, we have an increase from fiscal year 1985 to fiscal year 1986. The majority of the increase is in our Superfund Program, but we also have a slight increase in our operating programs as well. None of our programs reflect a decrease as far as personnel are concerned going into fiscal year 1986.

We think this continues a trend which you can see began as we moved into our 1984 budget, a good strong trend to build the kind of strong scientific and technical management resources necessary to manage our program.

The second major category, then, is our funding resources required to move the Agency forward. There again, you see the increase reflective overall for the Agency and in each of our categories.

Now, construction grants, which is the majority of the funding for the Agency, will continue at the $2.4 billion level for fiscal year 1986, which is consistent with the level now for the last several years, and we will talk more about construction grants in just a minute.

Our operating programs will have a slight increase in funding—approximately 4 percent—as we look at fiscal year 1986, and our Superfund Program, a more substantial increase, and I will get into the specifics of the Superfund Program in just a moment.

So, as you can see, as we look at our fiscal year 1986 budget, the major components are reflective of a Superfund increase of nearly 45 percent. Now, a large portion of that increase is going to actual site cleanup work, maintaining the kind of momentum that we established last year and initiation of new site starts, but bringing more and more sites to the actual cleanup stage, where we have got money going into the construction phase of the large projects.

As a matter of fact, we will more than double the number of sites that we will actually have in the construction phase in 1986 over what we will be doing in 1985.

Second, there is a major increase for the RCRA Program, and I want to show you in a minute where we are in the RCRA Program in 1985 and 1986 as compared to where we were in 1984, but we feel we are making a major commitment to move forward and implement the authorities that you spelled out in that reauthorization of RCRA in the kinds of timeframes that you gave us to do that. This budget, we feel, both in dollars and work-years, is reflective of that.

Third, there is an increase in our Acid Rain Program, specifically in the research budget, of 61 percent. Now, overall, there is an increase in the administration's commitment to acid rain research. This is specifically related to EPA's component of that, which is a major part of the Acid Rain Research Program, but again, a commitment to try to find the answers and lessen uncertainty in each of a number of component parts of our acid rain approach.

Fourth is a significant expansion of our Enforcement Program overall, and I will give you a little more detail on that in a minute. Clearly, that is reflective of the commitment I mentioned to Superfund and the Hazardous Waste Program generally. The strengthened Research Program goes beyond acid rain. Hazardous waste research increases; also, toxics and pesticide research increases.

Finally, there is a steady commitment to State grants. Now, I indicated the Continued Construction Grant Program in 1986 will be at $2.4 billion. There is also a continued commitment to the overall State Grant Program. I will talk about that in a little more detail, but in fact the State Grant Program reflects an increase for 1986 over the 1985 level.

So as you look, then, at fiscal year 1985 and fiscal year 1986, you will see again a steady state on construction grants, a significant increase in the Superfund Program, and an increase in our operating program, for an overall increase in dollars of 8 percent for fiscal year 1986 over fiscal year 1985.

Now, let me show you the specifics of how we got that increase from 1985 to 1986. The figures you see there do not reflect construction grants because, as I indicated, that is steady state, so we are just looking at our operating programs and our Superfund Program.

First, starting off with the base of $1.9 billion in 1985 enacted, there is a decrease of $25 million for administrative cuts. There are two categories there that are across all budgets in the administration. One is the 5-percent pay cut for Federal employees and, second, a 10 percent administrative cut, taking administrative expenses and reducing those by 10 percent. That accounts for that $25 million, reflected in our 1986 budget, that is the across-the-board reduction that all agencies are taking.

Then we built in a $54 million increase for RCRA for fiscal year 1986. That is both a Federal increase and State grant increase, reflective of the new requirements in RCRA.

Next is our increase of $23 million for an expanded Acid Rain Research Program; our large increase of $280 million for our Superfund expansion; and a $7 million increase in other categories.

Now, there are a number of offsetting categories there as we wind down some programs and increase other programs. The overall net was a $7 million increase. Basically, then, you have our $2.268 billion budget for operating and Superfund for fiscal year 1986 on top of our Construction Grant Program.

Those are the big components. There is obviously a lot of detail behind that, and we can talk about it, but that is basically how you build from 1985 and move to 1986.

Now, I would like to talk in a little more detail about some of the specific components. Again, looking just at 1985 and 1986 and in fact what we have there as far as an increase, again you see, as I indicated, the increase from $1.9 billion to $2.268 billion. Now, let us look at some of the specific components of that.

First we will take a look at enforcement. As I indicated, there is a significant increase overall in the agency's Enforcement Program. It reflects a 21-percent increase in money and an 11-percent increase in people from 1985 to 1986. A large part of that is reflective of the increase in Superfund. A strong component of Superfund will be enforcement. A large component of that increase in Superfund goes to our Enforcement Program.

Second, a strong component of our hazardous waste increase is an enforcement component, particularly field personnel in our regional offices, as it was with Superfund. Additionally, there are increases in the water quality enforcement area and in the toxic substances enforcement area.

There is a continued strong Criminal Enforcement Program building on what was established in 1984, and particularly what we are establishing in 1985. So, as you can see, the Enforcement Program across the agency is increasing substantially.

The second major category of increases is in our Research Program. I indicated there was an overall increase in research. These are the three major categories where that increase is occurring: Acid rain, which I have already indicated, again directed toward both aquatics and forest damage issues, where we will be doing additional work; our Hazardous Waste Research Program, reflective of the commitment that we feel is required in the research area to support our regulatory effort to implement the new authorities you have given us and the new mandates you have given us; and our Toxics and Pesticides Program, particularly research and development, reflective of our need for additional knowledge on existing chemicals and existing pesticides, in addition to the ongoing work we have on registration of new pesticides.

The third major crosscutting area—actually, this is a specific program area—is that for RCRA. I wanted to point out to you not just 1985 and 1986 increases in RCRA but show you where we were in 1984, because we are in the final processes of working with your Appropriations Committees to complete a reprogramming of some of our 1985 money for RCRA.

Contingent upon that final agreement—and I think we have almost concluded that—you will see a substantial increase both in dollars and in people in the RCRA program in fiscal year 1985, the one we are in right now. We will be taking full advantage of that, hiring people right now, and increasing the amount of money expended to move forward rapidly with that new authority; and then the 1986 increase I indicated, the $54 million and the 146 additional workers.

Now, as you can see, that means, from 1984 to 1986, we will nearly have doubled the amount of money that we have for the RCRA program, and we will have added almost 400 new people to that program. We think that is the kind of commitment required in order to in fact move forward in the time frame that you gave us to implement the RCRA Program.

We are firmly committed to moving forward and implementing that RCRA Program in an aggressive fashion.That is reflected in what we are doing in 1985, and I think it is reflected in what we have asked for in 1986.

Additionally, I wanted to show you, in the Superfund Program, how we had moved from 1984 to this request in 1986. As you recall, we had a significant increase enacted by you in the 1985 budget, both in terms of dollars and people. For 1986, it is even more significant.

The increase in Superfund during that 2-year period of time will in fact almost double the dollars and will be a significant increase in workyears. If you look back to 1983, if you recall where we were in 1983, clearly the Superfund Program has grown dramatically.

You and I have talked last year—and I am sure we will talk again—about in fact how that translates into action in cleanup. We think that we have a lot of momentum going in the field in cleanup. It also, frankly, translates into tremendous administration and management issues.

Expanding a program as fast as we have expanded that, we face some real challenges. I think we are dealing with them fairly effectively, but I will tell you, there are some real challenges there to increase a program like we have increased that one.

Senator LAUTENBERG. Mr. Chairman, just a point of clarification, if I might. What is the 5-year basis that you are using for the annual analysis, the total funding?

Mr. THOMAS. The past 5 years?

Senator LAUTENBERG. No; the prospective, starting with 1986.

Mr. THOMAS. Well, in the budget we laid out a proposal, I think, of about $5.3 billion for 5 years, and $900 million for 1986 is the first year of that 5-year period of time.

Senator LAUTENBERG. Thank you.

Mr. THOMAS. The final major crosscutting issue in the agency that I would like to mention to you is our commitment to the State component of these programs. As you and I know, the State component in many of these programs is by far the most important component, and not just the amount of money that we in fact provide to the States, but the amount of funds and resources that the States themselves put up, which often surpasses substantially the amount of money that we commit.

But our money is very important, and the kind of commitment that we have made to the States. For fiscal year 1986, we will continue a strong commitment to the State program. It will reflect some increases. There are increases back to the enacted level on all State grant programs, which in fact are an increase in a number of those State grant programs, and an additional increase in the hazardous waste or RCRA State grant program, again reflective of the new authorities that we have.

A major component, by the way, of that increase in 1986 for the States has to do with implementation of the underground storage tank regulatory program, which we feel will begin to impact the States in 1986. There will probably be much more of an impact in 1987 as far as management and administration, but they will need to begin establishing their administrative capability in 1986. So we have about a $7 million increase in State grant funding specifically oriented toward the underground storage tank program.

So, Mr. Chairman, in summary, as I stated, we feel that the 1986 budget, particularly as you put it in the context of both the administration and Congress' intent to maintain a strong program in the environment but at the same time come to grips with the deficit issue which we must face, we think this budget is reflective of a commitment to environmental progress.

We think it also reflects the strong priority we place on moving forward not only with Superfund but with some of our other priority programs, specifically the RCRA reauthorization effort which you completed and we now are fully involved in implementing.

So, Mr. Chairman, I appreciate the opportunity to be with you today and review this budget, and I will be glad now to get into detailed questions that you and members of the committee may have.

Senator STAFFORD. Thank you very much, Mr. Thomas.

Consistent with the practice of the committee in the last two sessions of Congress, the Chair would again recognize Members for questions in the order in which they attended the meeting.

I would remind my colleagues that we will have to finish this hearing no later than 10:25 because of the British Prime Minister's speech to a joint session of the Congress. If we cannot complete the work of the committee this morning, we will simply have to try to work out another date to continue it.

We may not reach the second witness, as a matter of fact, and the Chair would propose that we allow ourselves about 7 minutes each in this round of questioning. If that proves to be inadequate and we have to schedule another session, we will do it. But we have serious time constraints today.

Having said that, Mr. Thomas, while one function of the Congress is to enact the laws, much of our time is spent in oversight, trying to see to it that the laws are, in our judgment, properly implemented.

This means, among other things, that from time to time you and other officials of the executive branch are called upon to appear before the committees of the Congress, and you agreed at your confirmation hearing to do this.

The bulk of the information which we require for oversight is not obtained through testimony, however; it is provided by agencies in response to questions and letters. In this regard, I would like to note that a number of questions submitted to you by committee members, both before and after your confirmation hearing, have yet to be answered.

Most of these were submitted more than 3 weeks ago. Duplicate sets of these unanswered questions were delivered to your staff last week and will be delivered again after this hearing. I would like to receive the answers, if at all possible, by March 1. Where that is not possible, I would appreciate being informed of the reason.

There are one or two questions which the chairman submitted which I would like to review now. One of these dealt with acid rain.

The agency is now in the process of developing its tall stacks policy. We recognized this at your confirmation hearing. Both then and earlier, I asked if the agency would provide a projection of emissions and deposition reductions which might result from the various interpretations of the tall stack regulations ranging from most stringent to most lenient.

I also specifically asked for projections which would result if the tall stacks were physically reduced to the height dictated by good engineering practice.

What I have received are copies of studies by consulting firms of the options identified by EPA staff, not the data which I requested. This is a matter of considerable interest to the New England States and, I would think, the Midwestern ones as well. So my question is, when may we expect to receive these analyses?

Mr. THOMAS. Senator, first let me say that you have my absolute commitment to be as responsive as I possibly can to the questions that you or members of this committee would submit. We have received nearly 350 questions from you and members of the committee over the last several weeks, and to my knowledge, we have completed responses to the vast majority of those questions, and I thought the majority of them were here with you.

I will have to you within the next day or two a review of exactly where we are on all the questions that have been submitted to you so you can see exactly where we are in responding and a time frame for submitting them, and I think your timeframe certainly should be satisfactory to us.

But one of the problems that we often run into in the questions is that we literally don't have the answer to the question, or in fact the answer to the question requires a substantial amount of analysis. If we have an occasion like that, I will so note.

It may well be that the question you just asked concerning the tall stacks proposal would fall into that category, but I will find out as soon as I go back to the office as to exactly why we have not been fully responsive to the question you have asked.

Senator STAFFORD. All right, thank you.

In a separate question, I asked for copies of studies and summaries thereof on the health effects of short-term exposure to low levels of nitrogen dioxide. It is my understanding that not only has the agency conducted such studies but that the studies were discussed at a public meeting. I would think, therefore, that they would be readily available. When may we expect receipt of these studies?

Mr. THOMAS. Senator, again, I will assure you that if those studies are available, you will have them, and I will let you know immediately as to when you will have them.

Senator STAFFORD. I would like to also clarify a matter which we discussed at your confirmation hearing. That is the role of the Office of Management and Budget in decisionmaking at the Environmental Protection Agency.

When I asked for copies of the information which the agency was developing for submission to OMB, you explained that you were still in the process of deciding what regulations would be significant, and that we would receive information when those decisions were made.

At least some persons believe your answer to mean that we should receive a copy of your submission to OMB at the time it was sent over, which we thought to be yesterday. Is that what you meant?

Mr. THOMAS. Senator, as we discussed at the confirmation hearing, the process that we are going through now with OMB in development of our annual regulatory program is a government-wide process pursuant to the President's executive order that was signed a few weeks ago. It is very similar to the budget process we go through.

My suggestion at that time was that I felt we could be fully responsive to the needs of the committee just in a similar vein that we were responsive to the committee for its information regarding the budget process. As we have completed the regulatory process, our annual regulatory plan—which is what we are developing—once that is completed, then, just as we do on the budget process, we would provide to the committee the documents that are available that we have used during that process, just, for instance, like I did last week to the committee on the budget that we have concluded.

But it is a process of going through and completing and making final decisions in that annual regulatory agenda, and then the predecisional documents that we have all worked through in that process, we would then pull together and, consistent with the same way we worked with the committee on the budget, we would make that available to the committee on the regulatory.

Senator STAFFORD. Thank you very much.

It is correct, then, I guess, that these documents and the process for setting EPA's regulatory agenda, for all practical purposes, will not be open to public scrutiny until the decisions are finalized.

Mr. THOMAS. That is correct.

Senator STAFFORD. Well, I see the chairman's 7 minutes are up. Gentlemen, to those of you who were not here when we started, the Chair intends to terminate this meeting at 10:25, in view of the Prime Minister's appearance a little later in the joint session.

The Chair has reserved to all members the right to enter any opening remarks they may wish to in the record following my own and Senator Bentsen's opening remarks.

Senator MITCHELL. Mr. Chairman, may I be heard on that?

Senator STAFFORD. Yes.

Senator MITCHELL. I understand the time constraints, and I know we have to adjourn today.

I would ask that the hearing be continued after that and that we have another opportunity. If we follow the 7-minute rule, that means that some of the Senators who came in later would not get a chance to ask questions.

Senator STAFFORD. The Chair is about to ask members if they would agree to reducing to 5 minutes for this first round so everybody has one chance to ask a question who may wish to, and then we will, if necessary—and we probably will have to—schedule a continuation of this hearing at some later date.

Senator MITCHELL. I hope so, Mr. Chairman. The budget is an important hearing.

Senator STAFFORD. Yes, it is.

Senator LAUTENBERG. I, too, Mr. Chairman, would request a commitment to the extension of this budget review.

Senator STAFFORD. The Chair has in mind there is another witness to follow Mr. Thomas, in any event, so the likelihood that we can finish is slight.

Gentlemen, if there is no disagreement, let's say 5 minutes apiece for this round so that everybody has a chance to ask a question if he wishes.

We are going in order of appearance, which means, Senator Chafee, you are next.

Senator CHAFEE. Thank you, Mr. Chairman.

Mr. Thomas, I wonder if you could quickly introduce your administrative assistants, Mr. Moore and so forth, so we know who they are.

Mr. THOMAS. Let me ask them, as I call their names, if they would raise their hand for you.

Senator CHAFEE. Thank you.

Mr. THOMAS. With me today is Jack Moore, who is our Assistant Administrator for Pesticides and Toxics; Chuck Elkins, who is the Acting Assistant Administrator for Air Programs. As many of you know, Joe Cannon just resigned and is going with a law firm here in Washington, and Chuck is serving in the acting capacity.

Also, we have Howard Messner, who is our Assistant Administrator for Administration and Resources Management; Jack McGraw, who is our Acting Assistant Administrator for Solid Waste and Emergency Response, which is our Superfund and RCRA area; Jerry Yamada, who is our acting general counsel; Courtney Price, our Assistant Administrator for Enforcement and Compliance Monitoring; Milton Russell, Assistant Administrator for Policy, Planning, and Evaluation; and Don Ereth, who is the Deputy Assistant Administrator for Research and Development. Bernie Goldstein unavoidably had to be out of town today, and Don is his deputy and is here in his stead.

Senator CHAFEE. And Jack Ravan?

Mr. THOMAS. I am sorry I didn't mention that Henry Longest is here. He was at the top of my list. Jack Ravan is providing a briefing now for the ocean incineration regulations which we are proposing today, and unfortunately, it conflicted with this hearing. Henry is his deputy and is here with me today, for our water programs.

Senator CHAFEE. Now, Mr. Thomas, acid rain research has gone on, and now you are increasing it by $23 million. What are we getting for that? When is this going to end?

Mr. THOMAS. Senator, I cannot give you a timeframe in which it is going to end. I don't think it is going to end soon. I think that there is an awful lot of uncertainty associated with all the components of acid rain, and I think that the research and the information gathering, not only from this agency but other agencies, needs to continue.

I think we are getting information from it. I think that oftentimes it is not the bottom-line kind of clear-cut answers that some people would like. Oftentimes, as a matter of fact, it presents us with more uncertainty. But in fact, that is why we do research, to try to find the answers or to try to, in fact, determine where the areas are we need to pursue.

This research money will build on what we are already doing. It will allow us to do more work in the forest effects area, more work in the dry deposition monitoring, more work in the aquatics effects—all areas where there is a tremendous amount of uncertainty, and also where there is a tremendous impact one way or the other, depending upon what the answers to the questions are.

Senator CHAFEE. Well, I, for one, just think the thing has gone on long enough, and I don't see the value of adding more money to it. Here is $23 million. You are spending $60 million. That must be one of the most expensive research projects ever undertaken.

I think that we have to reach some conclusions. As you know, this committee reached a conclusion some time ago, and I suspect that this is going to continue to 1988 at the present rate.

Now, how realistic is this 10-percent administrative cut you have in there? I think the 5-percent pay cut is unrealistic, but then you have a 10-percent administrative cut. How is that going to work?

Mr. THOMAS. Senator, particularly when you take the 10-percent cut for 1986 on top of the cut we have taken in 1985 as a result of the $3 billion Deficit Reduction Act that you passed last year, which is in fact a rescission for 1985, it is difficult.

We feel we can continue our programs and run the agency, but I am not going to tell you it is not tough. There will be a lot of belt tightening. When you hit administrative costs, you are hitting travel; you are hitting other components of the Agency.

I can support this budget. I feel we will be able to do the job. But it is tough when you build this 10-percent cut on top of the cut that you gave us this year.

Senator CHAFEE. Well, you think you are going to make it?

Mr. THOMAS. Yes, sir.

Senator CHAFEE. Our time is so short. I just want to ask you about your failure, in my judgment, to review the recommendation from your regional administrator on Westway.

What is the point of the whole 404 program? Are we jettisoning that in this process? Why even bother to have the program if your regional administrator says you should review it and you decide not to?

Mr. THOMAS. Senator, it was not an easy decision to make. I think it is a decision that I can stand behind. It certainly in no way reflects, I think, any jettisoning of the 404 program. It is one project out of thousands of projects that are reviewed under the 404 program.

Under the 404 program, as you know, we have criteria that we develop for the Corps of Engineers. We have a process for review whether they followed those criteria or not. Ultimately, we have an authority to actually veto a project if we feel it is required.

We have used, and we have used actively, each of those authorities—probably much less use of the veto authority than some people would like, but it is a tougher test to meet before you actually go in and veto a project.

In regard to the Westway project, I spent a lot of time, as did my assistant administrator and regional administrator, reviewing in fact the technical facts associated with Westway. I felt that the end result of that review, which was yesterday—which was that I did not concur with the recommendation of my regional administrator that it should be elevated to the Council on Environmental Quality—was that I felt that we could make a decision, we in EPA, based on the data we had.

I did not feel a continued review over a long period of time of additional fish data or fish studies would provide us any more certainty associated with the impact on the fish in that project than we would have today, and in fact I felt that a decision was required, and I felt that we could make it.

Senator CHAFEE. Well, my 5 minutes is up, and I see smoldering in the corner the distinguished Senator from New York, so I will stop.

Let me just say that I am looking forward to oversight hearings on the whole 404 programs, and the subcommittee that I chair will be doing that. I am very disappointed in this decision. Forget the cost; I am not arguing the cost. I just think you are destroying the habitat of a very valuable fish.

Senator STAFFORD. Getting away from the fish, we will turn to Senator Mitchell.

Senator MITCHELL. Thank you, Mr. Chairman.

I have an opening statement that I would like to have inserted into the record at the appropriate place.

Senator STAFFORD. Without objection, it will be, following those of the Chair and Senator Bentsen, as well as anybody else's who wishes.

Senator MITCHELL. Mr. Thomas, I congratulate you on a forthright and concise presentation of what I think is a good budget proposal, a significant improvement over the budget that has been submitted in previous years.

I have a number of questions, and I will only be able to get to a small number of them, one or two at this point. I hope that you will come back and we will have the opportunity to question you further.

Necessarily, the questions tend to focus on those areas of the budget with which I may not agree, but I want to make clear at the outset that that is a part of the process, and I hope it is not construed as disagreement with the overall budget. I think you have done a good job, consistent with the experience we have had with you.

As you know—following up, if I may, on Senator Chafee's first line of questioning—I have asked you and your predecessors privately and publicly many times when it is we might expect a conclusion to the research conducted on acid rain, a consolidation of findings, and a recommendation on whether a control program is or is not justified, and if one is justified, what type of program that should be.

You have repeatedly, both you and your predecessors, been unable or unwilling to give any indication and have simply recommended more research without any indication of a date. I gather that your answer to Senator Chafee is consistent with those previous responses and you are now not prepared to tell us when it is that the EPA may be prepared to make a recommendation one way or the other with respect to an Acid Rain Control Program. Is that correct?

Mr. THOMAS. That is correct, Senator. Let me just elaborate a minute.

Based on all the review I have done over the last couple of months—which has been considerable—of the status of the acid rain issue and where we were with our Research Program and where we were with review of our policy on acid rain, I am not today at a point where I can tell you that I feel we should modify the position we have and in fact either initiate a control program or definitely say that a control program is not required.

Senator MITCHELL. Then I will approach it from another point—negatively—and perhaps get at least some limited information.

Can you now say that you do not expect such a determination to be made within the fiscal year, the budget for which we are now considering, which is fiscal year 1986?

Mr. THOMAS. No, sir, I would not say that.

Senator MITCHELL. You would not?

Mr. THOMAS. I would not say that I would not be at that point. We have, as you know, a major amount of research under way and, as a matter of fact, a lot of information gathering. We are about midway through, maybe a little further than midway through, in 1986, the 10-year Research Program that Congress basically laid out 5 years ago that they wanted us to undertake.

As you know, many environmental decisions, as other decisions, are made where there is still uncertainty remaining on any issue.

Senator Mitchell. Not only environmental decisions; many decisions in the area of public policy by every committee in the Congress, repeatedly.

Mr. Thomas. Many decisions, exactly. But I find particularly that is the case with every decision I get environmentally.

So I think that, at a point in time, even though there remains uncertainty in areas, we may feel that we have enough information at that point to come to a definitive conclusion one way or the other on control strategies, whether they are required, whether they are not required.

I could not predict for you today that that point in time will be beyond 1986.

Senator Mitchell. So you at least are unprepared to rule out the possibility that it will occur in 1986?

Mr. Thomas. That is correct.

Senator Mitchell. I wonder if you would, Mr. Thomas, submit in writing to the committee—and I would like to get a copy of it—a detailed presentation of the use to which the research funding in acid rain will be put, the rationale for the selection of certain areas of inquiry as opposed to others, and how you feel that moves the EPA closer to the point in time at which it will make a decision.

I assume that to be the fundamental objective of all of the research; that is, to some day make a decision on whether we should do something about it.

Mr. Thomas. It really is; that is, to try to reduce the uncertainty in each of a number of areas that leads, then, to decisions on policy.

As we review on a continuing basis our policy, we look at where that Research Program is going and how in fact is it feeding in information to that policy decisionmaking framework. We will work to try to pull together the answers to the request you have made.

[The information follows:]

FY 1986 ACID RAIN RESEARCH

The acid deposition research program increases by $23 million to a total of $60.5 million for FY 1986. Total Government acid rain research funding requested for FY 1986 is $85 million, compared to about $65 million in FY 1985. Our increase will be used to expand fundamental research on the physical and chemical mechanisms and deposition processes that govern the acid deposition phenomenon. Major emphasis will be placed on initiating research that: (1) describes the sensitivity of aquatic resources to acidification and the rate at which acidification occurs; (2) establishes the causes and the extent of currently observed forest declines in several regions of the U.S.; and (3) accelerates installation of a monitoring network for dry acid deposition.

Specifically, we plan to accelerate our research on the sensitivity of aquatic resources and the rate at which acidification occurs so that we may better address the question of "direct or delayed" response. We will add $3.0 million to the aquatic effects program to survey and analyze soils in representative watersheds to predict the proportion of lakes that respond "directly" to acidification or in a "delayed" timeframe.

We have added $11.5 million to our terrestrial effects program to better establish the causes and the extent of currently observed forest declines in several regions of the U.S. We plan to conduct a survey of vegetative damage and, in cooperation with the U.S. Forest Service, conduct field and experimental studies for four major forest ecosystems: southern spruce/fir; northern spruce/fir; southern commercial pine; and northern mixed hardwoods.

To fully establish cloud monitoring sites that are designed to determine cloud chemistry and deposition in high elevation forests, we have added $1.5 million to our atmospheric processes program. Additionally, we have requested $3.0 million to carry out a controlled atmospheric field study of dry deposition processes. This field study will be carried out in cooperation with the Department of Energy and the National Oceanic and Atmospheric Administration.

We have added $2.0 million in the deposition monitoring program to provide for the establishment of a dry deposition network of up to 50 sites. This "dry" network will complement the 150-site "wet" deposition National Trends Network, and will be critical in differentiating the relative contributions of local versus distant sources to total sulfate and nitrate deposition.

The major result of these activities is that they will enable the Agency to formulate timely and cost-effective regulatory policies concerning acid deposition. In addition, the Office of Research and Development and the Office of Air and Radiation have in early draft stages a detailed presentation which includes the use to which the research funding in acid rain will be put, the rationale and the relationship to policy decisionmaking. We expect to finalize this in the next two weeks. We will provide this to the Committee as soon as it is available.

Senator MITCHELL. I also would ask if you would, prior to the next hearing—assuming you will be returning—review the statement by Mr. Drayton which is submitted. I have not had the opportunity to read it all. It was just handed to me a few moments ago. It indicates that EPA is not doing the job in some important areas.

For example, I will just read a subheading: "The job is not getting done. Toxic safeguards remain largely unimplemented."

I would appreciate it if you would review this statement and be prepared to comment to the committee in response to any statements made in here that in any way contravene anything you have said or that is in the budget.

Mr. THOMAS. I would very much appreciate the opportunity to do that, Senator.

Senator MITCHELL. All right.

Senator STAFFORD. Senator, your 5 minutes are up.

Senator MITCHELL. Thank you, Mr. Chairman.

Senator STAFFORD. Thank you, Senator Mitchell.

Senator Lautenberg.

Senator LAUTENBERG. Thank you, Mr. Chairman.

Lee, since we are time compressed here, I would tell you that I would like to review more of the budgetary questions than I am going to ask right now, and again, I hope that you will be before us in a forthright mode again.

In regard to the sewage construction grants, this year's level is proposed at the same as the 1985 fiscal year. What is the longer range prospect on sewage grants?

Mr. THOMAS. The projection we have made in the budget is for basically a 4-year phaseout of the construction grant program—level funding in 1986, down to zero in 1990.

We are working through now a series of alternatives for proposed language that we would like to present for your consideration for reauthorization of the construction grant program to in fact implement that proposal, which is a 4-year phaseout.

Senator LAUTENBERG. The $2.4 billion, then, therefore could not include any new starts?

Mr. THOMAS. The intention of the $2.4 billion would be not to consider new starts. So as we begin our phaseout, we in fact complete the projects we have in the pipeline.

Senator LAUTENBERG. And you are saying that with the prospect of funding through 1990——

Mr. THOMAS. Basically ending in 1990, that is correct.

Senator LAUTENBERG [continuing]. That would take care of all of those that are started now?

Mr. THOMAS. Yes, but the discussion then will hinge around the definition of new starts, and that in fact is what we are working through now in proposed language for the committee to take a look at.

Senator LAUTENBERG. I wanted to just find out a little bit more, while we have this opportunity, about the decision to step out of the completion of, or any interference with, the Westway permitting.

I have to ask you this, Lee, was your regional administrator involved, or had he consulted with Washington, before he made his recommendation to the corps?

Mr. THOMAS. The most recent one, or the one he made several weeks ago?

Senator LAUTENBERG. The more recent one in which he recommended that the permit not be granted until the impact study is completed.

Mr. THOMAS. For both letters that the regional administrator sent, the one about 4 weeks ago and the one he sent in the last several days, there was consultation between Washington and New York.

Senator LAUTENBERG. So then it is fair to say that you or someone at a very high level working for you shared his point of view at the time?

Mr. THOMAS. Jo Cooper, who is the Assistant Administrator for External Affairs—and, as such, has the responsibility for the 404 Program under our Office of Federal Activities—I am sorry Jo is not here this morning—but Jo was very much involved, with her staff, our general counsel's office staff. I was involved periodically, not nearly to the extent they were, but I was involved both previously as we were preparing our technical comments and letter to the corps on their environmental impact statement, and then most recently as we made a final decision.

Senator LAUTENBERG. So something happened in these last few weeks that persuaded you that this ought to go ahead despite even a recommendation in Jo Cooper's letter to the Assistant Secretary of the Army that says, "Completion concurrent with the project's initiation of the full 18-month habitat study." So there still is considerable doubt, I think it is fair to say, as to what that impact might be.

Are we plunging ahead without understanding what might happen to this maybe last remaining habitat for the striped bass population?

Mr. THOMAS. Well, Jo recommended in her letter—and I think it is something that we felt was appropriate—that the continued study of mitigation alternatives, as well as monitoring of the impact, be carried forward simultaneously with the effort by the corps.

Now, as you know, Senator, there is a tremendous amount of uncertainty about in fact what impact this may or may not have on the striped bass in the Hudson, and in fact what impact that may have on the national issue of striped bass and the striped bass industry.

It is that uncertainty that leads different people to draw different conclusions. The Corps of Engineers took a look at a broad range of issues including this one. We could only look at the environmental issue in EPA, and we had to make our decision based on how much certainty or uncertainty there was on the potential impact on the striped bass.

Senator LAUTENBERG. Did you hear from the White House on this one?

Mr. THOMAS. Very little.

Senator LAUTENBERG. So the decision was made, you are saying, entirely within your office, Lee?

Mr. THOMAS. Yes, sir.

Senator LAUTENBERG. As I heard your testimony, you said that you were not certain that any further study of the impact on striped bass would gain you any knowledge, and yet your direct assistant is saying that it ought to be done.

What do we lose by completing that? What we could lose if we go ahead and there is something wrong in this equation is that we could lose perhaps one of the most valuable fish resources that we have in our Northeast.

Mr. THOMAS. Well, Senator, the conclusion that we reached was that we did not feel the weight of evidence was in that direction. We did feel, though, there was uncertainty. We felt that there should be continuing study, particularly on mitigation alternatives, as we go along to see if additional mitigation components could be factored in.

We felt that additional studies should be done so that in fact, as we go along, if we find conclusive evidence one way or the other, that in fact will surface.

Senator LAUTENBERG. Thank you, Mr. Chairman.

Time has passed quickly. I would ask that my opening statement be included in the record.

Senator STAFFORD. The Chair already has blanket permission of members to place their opening remarks in the record following those of the Chair.

The Chair can now announce, I believe, that we will be able to continue this hearing at 10 o'clock tomorrow, if Mr. Thomas is available then. The Chair will be unavoidably absent for a while, but Senator Chafee has agreed to chair the meeting tomorrow.

Senator Baucus.

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Thomas, I share some of the concerns voiced by Senator Mitchell about the delay in the acid rain decision. As I listen to the Westway controversy, it seems ironic that the decision was reached fairly quickly, perhaps too quickly in that case, and yet a decision cannot be made on acid rain in the other case.

More specifically, I am wondering, in the $23 million, what emphasis is being made with respect to acid rain problems in the West, particularly since western acid rain problems are now beginning to develop in the Cascades, in the Rockies, and they tend to have more of a nitrous oxide problem than an SO_2 problem. Could you tell me what emphasis the studies are placing on western acid rain problems?

Mr. THOMAS. We currently have under way in fiscal year 1985—and it will carry over into 1986, so some of this funding is associated with it—several things in the aquatics area that relate directly to the West.

We have a major lakes survey that we have nearly completed as far as eastern lakes are concerned, and we are now moving to do that same survey in the West; that is to in fact sample thousands of lakes around this country to determine the acidic content of that lake water.

We are doing the same thing in both East and West as far as streams are concerned. We are also looking at soils around those lakes. We are finding that a major issue associated with the potential problem in lakes has to do with soil content.

We began this in 1985, particularly, but in 1986 a good portion of this money will support forest effects damage, and nitrous oxide apparently is one of the things that may or may not be having a major effect as far as forest damage is concerned.

Now, that, both in the West and the East, is the issue, as you noted. One of the things we are trying to do is spend a good bit of time in our research program now focusing on the forest effects issue, where we know less, certainly, but where we may have a very significant issue, but we know less than in the aquatics area.

Senator BAUCUS. I strongly encourage you to pursue that but also generally come up with some recommendation as quickly as you can on acid rain.

I perhaps do not have quite the same intensity of interest as do Senator Mitchell and other New England Senators, but I can tell you it is almost as intense as their interest. You well know that the more quickly you decide what you will do, the better off we are all going to be.

Second, Superfund legislation has a provision allowing States to collect from the fund certain money to pay for damages for natural resources, the natural resource damage claims provision.

As you also know, the administration has been a little slow in implementing these provisions. My question is, what is the status of the rules and regulations, and how much does the agency expect to spend for natural resource damage claims in the coming year?

Mr. THOMAS. The actual rules to implement that natural resource damage claim procedure should be issued in the next several weeks. We are in the very final stage now in EPA of completing that rulemaking process.

You and I discussed it last year, and I recognize your concern, and I feel those regulations will be reflective of some of the concern, both in getting them out—and we have been very late in getting them out—but also in fact having on the street a proposal for implementing that.

Senator BAUCUS. And how much do you expect to spend?

Mr. THOMAS. Very little, Senator.

Senator BAUCUS. Why is that?

Mr. THOMAS. We expect to spend money between our agency, Department of Interior, and NOAA on actually doing some of the claim work, but as far as money for claims themselves—in other words, an amount of money that is set aside for claims that may come in—we have not set aside a specific amount of money.

All the money is committed for cleanup action at projects that present major threat problems. If in fact we respond to a claim and use the money out of the fund for a claim, we are going to have to delay the cleanup at some sites.

Senator BAUCUS. But can you give me a dollar figure of roughly what you expect to spend, a ballpark figure?

Mr. THOMAS. I don't expect to spend any money for claims, and the amount of money I expect to spend in interagency agreements for the actual assessment work and staff, I think, would probably be somewhere in the $1 million to $2 million range.

Senator BAUCUS. My time is up. I have another question, but I will submit it later.

Thank you.

Senator STAFFORD. Thank you very much, Senator Baucus.

Senator Domenici.

Senator DOMENICI. I pass, Mr. Chairman.

Senator STAFFORD. All right. In that case, Senator Moynihan?

Senator MOYNIHAN. Mr. Chairman, can I say to Mr. Thomas and to some colleagues here that I suppose I am the author of the Acid Precipitation Act of 1980, a bill which I was able to get through because nobody knew there was an acid rain problem. Had there been any general awareness of the subject, the bill would not have passed.

It did say—and I know that research takes time—but it set out a 10-year program on the assumption, first of all, that it was not clear what the situation was. We had begun to learn a few things from the work done at Cornell, but it would take a lot more solid longitudinal work before we would ever be able to bring a case to the floor of the U.S. Senate and pass legislation.

It does not trouble me that you have $26 million more in research, but what I guess we would like to hear is—you are midway through; you are 5 years through the 10 years now—if we could get from you sometime, not tomorrow—not something you must work all night to do—but sometime in the next couple of months, some sense of where you see the research going, I mean the people in charge of it; what is their plan for the second half of the 10 years, that would be most helpful.

By now you should have some strategies. You have had 5 years to think about what are the promising questions. Could we look forward to some kind of hearing perhaps, Mr. Chairman, in which we could hear what the next 5 years may hope to bring?

Mr. THOMAS. Yes, sir. I think that is a good idea, particularly focusing on the research aspects, not only what we have done but what we are going to do.

Senator MOYNIHAN. You are halfway through a 10-year program, and you have learned things already, and by now, a good research program has picked one or two or three strategies. You know who the better people are, the better institutions.

If I can comment on Westway, a big issue we have in the whole environmental area is whether we have used environmental issues as a substitute agenda for other issues. As to whether we have rushed to any judgment on Westway, my lord, it was 8 years ago January that Senator Javits and I were asked by the Secretary of Commerce—then Mr. Coleman—to come down to the Department of Transportation, and we were shown a huge model, and he said, "Here it is; it's yours; it's called Westway." Eight years later, we are still going through the administrative procedures.

I think Colonel Griffiths in New York took a whole year, stopped everything, and went at the striped bass question and did it as responsibly as it could be done in ways that only the Corps of Engineers can do it, and I think you accepted his decision.

In the end, the question is, can we make decisions in this Government? I think the Westway project is now entering its 15th year. The Parthenon was built in 5 years from a dead start, by hand and horses.

There is one question which I don't know if I have time for, but maybe you can give me a quick answer. We passed the Asbestos

School Hazard Abatement Act last year, and we proposed a $600 million loan program to get asbestos out of school situations.

You have $50 million supplemental, but you haven't asked for any money for this. Can you help us on that? I mean, not to ask for an appropriation with respect to a bill is to sort of propose not to enforce the law, isn't it?

Mr. THOMAS. Senator, we are moving forward to implement the proposal from last year, and I think we are making good progress. We do have the $50 million. We are in the process of working with the States and with the local education districts to actually review their requests. As a matter of fact, we just passed the deadline for submission of a funding request for the $50 million.

I think that there are probably two issues here. One has to do with just how great a need is there, and the program you passed last year had to do with the financial need in addition to the actual programmatic need of the districts. I think we will have a much better handle on that issue probably come about May, when we have reviewed all of the applications that have come in.

Additionally, how much work has already been done by the school districts with their own funding? I think, as you recall, last year we felt, and still feel, that the majority of this work in fact will be done and should be done by those local school districts. In fact, the immediacy of the issue is such that we did not want people to delay actually moving forward with that work in anticipation of some kind of Federal funding that would be small in comparison with the total amount of need that was required.

We think that an awful lot of work has been done. We have moved forward with an aggressive asbestos enforcement program during the last 2 years. We see a lot of results of that. I think, come about May, we will be in a good position to discuss with you what we have seen as far as financial need and how much has been done and how much remains.

Senator MOYNIHAN. If you need a supplemental, or if we are still—as is likely the case—working on the budget, will you let us know?

Mr. THOMAS. I think we will be in position to discuss that with you at that time.

Senator MOYNIHAN. Could we put it down tentatively that we would like to hear from you in May as far as what you think the situation may be?

Mr. THOMAS. I think that would be fine.

Senator MOYNIHAN. Thank you, Mr. Chairman.

Senator STAFFORD. Thank you, Senator Moynihan.

Senator Bentsen.

Senator CHAFEE. Lloyd, could I say one thing?

Senator BENTSEN. Yes.

Senator CHAFEE. Mr. Chairman, I understand Mr. Thomas has to be at the White House tomorrow at 11 o'clock, so the proposal was that we start at 9:30 instead of 10.

Senator STAFFORD. If that is agreeable with the committee, that will be the hour. Can you be here, Mr. Thomas?

Mr. THOMAS. Yes.

Senator CHAFEE. And Mr. Drayton? Can he be here?

Mr. DRAYTON. Yes, sir.

Senator CHAFEE. All right. So let's start promptly at 9:30 tomorrow. Thank you.

Senator BENTSEN. Mr. Thomas, under these regulations that I understand are being released this morning on ocean incineration, I understand it is possible that you will have some research burns made before you get them in final form. If that is the case, how many of these research burns, in the maximum, will you anticipate? What kind of volume do you anticipate in that regard? Would you give me some feel for that?

Mr. THOMAS. Senator, we do have a research strategy laid out for the Ocean Incineration Program that will be funded under EPA's fiscal year 1985 appropriation, funds from both the water office and the Hazardous Waste Program, because it relates to both.

I don't have the specific number today. I could certainly provide that to you very shortly. As a matter of fact, what may be better is if I just provided you with the detailed research strategy that is laid out.

Senator BENTSEN. I would like that.

[The information appears at p. 49.]

Mr. Thomas. It does support the idea of, before we have final regulations, our intention to carry forward with would be a research program to further define some of the questions we have.

Senator BENTSEN. I would also like to know, what assurance do we have that those research burns are going to be carried out in an environmentally safe procedure? As you can well understand, the people all along that gulf coast are deeply concerned about it, and rightfully so.

Mr. THOMAS. Senator, we are extremely conscious of the concerns that the public has, and so as a part of that, we would have a public information program to explain exactly what we were going to do.

I can assure you that we would follow very stringent requirements as far as that research program is concerned, and it would be a research program that in fact EPA would implement and monitor and fully review through our program and research staff.

Senator BENTSEN. Having those research burns, would you have something that would be the equivalent of scrubbers to control those emissions as that incineration takes place, something equivalent to the scrubbers you use on land?

Mr. THOMAS. Let me ask Henry Longest.

Mr. LONGEST. We have discussed that, but that decision has not been made.

Senator BENTSEN. Would you speak up so I can hear you?

Mr. LONGEST. We have discussed using scrubbers, but we have not made that decision yet whether they would be required.

Senator BENTSEN. But you have not decided that, nor the equivalent thereof?

Mr. LONGEST. Not at this point.

Senator BENTSEN. Well, I would like to know that prior to it, and I would appreciate it if you would advise me of that.

What assurance do we have regarding transportation of these wastes for incineration under these research permits, that the transportation of those wastes would not take place without undue risk to the public health and safety?

Mr. LONGEST. One of the issues that will be brought out in a press conference this morning is transportation, not only of the waste to the site for loading the ship, but also the transportation of the ship out of the harbor and the Coast Guard responsibilities in that, and we are working very closely with the Coast Guard in terms of transportation of ships from the dock as well as transportation to the port.

So yes, that is a very heavy consideration.

Mr. THOMAS. Senator, let me add that the regulatory program for transportation of waste and storage of waste at the dock is one of the things that we have also looked at very closely as far as this overall ocean incineration issue is concerned; that is, moreover, on the RCRA regulations as well as the Department of Transportation regulations.

We have incorporated their personnel directly into the process of developing this ocean incineration proposal today. In fact we are taking into account the potential problems we have got as far as land transportation, the potential problems of storage at dockside, and then, as Henry indicated, the problems, or the potential problems, associated with the shipping out to sea through the port. We are working with the Coast Guard closely in that area.

Senator BENTSEN. I may have a number of other questions that I will pose to you in writing. Thank you very much, Mr. Chairman.

Senator STAFFORD. Thank you.

Senator Burdick, you were one of the first ones here this morning, but you were absent when we started down the list of questions, so the Chair will recognize you now.

Senator BURDICK. In view of the time, I will pass.

Senator STAFFORD. All right.

In that event, we have finished a first round of questions, and we still have a few minutes left. The Chair has one or two additional questions.

Mr. Thomas, before I ask the next substantive question, I would like to clear up one issue. On several occasions, both I and committee staff have been assured by officials at EPA that at the time the President's budget is submitted to Congress, the committee could also have copies of the budget request that EPA submitted to OMB.

Despite repeated requests at the staff level, the committee only received the EPA submission to OMB just yesterday. Could you explain why there has been a 2-week delay, and what assurance can you give us that in future years this information will be made available in a more timely fashion; that is, at the time we receive the President's budget?

Mr. THOMAS. Mr. Chairman, I apologize for that delay. It should not have happened, and I so instructed my staff yesterday that in fact the material that they brought up to me yesterday morning in a shopping cart is exactly the material that should have been brought up here to you when that budget was submitted. It is all the requests and passback and response information that has gone back and forth.

I in fact asked yesterday morning, with regard to both the letter you had sent and the letter Senator Bentsen had sent, if we had we been fully responsive and if that information had been sent up here, and unfortunately, I found that it was not up here. I can assure you we are not going to do that in the future.

Senator STAFFORD. Thank you very much. That is a good answer.

Now, here is the substantive question: Mr. Ruckleshaus originally requested $1.551 billion for EPA's operating budget for fiscal year 1986. Would you outline the basic difference between the original request and the budget proposal that is before us now?

Mr. THOMAS. I am sorry, I didn't hear the last part of that question.

Senator STAFFORD. The question is, Would you outline the basic differences between the original request; that is, the Ruckleshaus request of $1.551 billion and the budget proposal before us today?

Mr. THOMAS. Well, Mr. Chairman, there are differences in several areas. One, there is about a $50 million difference in Superfund. We originally asked for, I think, $948 million for Superfund; we ended up with $900 million in the President's proposal.

In our operating programs, we asked for additional funding for RCRA beyond what we ended up suggesting, and the same in several of our other categories. The material we submitted yesterday—and I will be more than happy to give you detailed material—in each of those categories, we went through a fairly lengthy process with OMB, not unlike the process we have used in years past but probably more lengthy this year than we have had in years past, where we in fact worked through our request and in fact what the President ended up submitting.

They were scaled back in some areas, but in each of the areas, as I indicated, I think we ended up with—and the President submitted—a good, strong proposal. Clearly, I did not have to come up here today and face you, as some other agency administrators have to face you, with a budget that eliminates their agency or in fact significantly reduces the 1985 level.

I think that is reflective of, in fact, the commitment we have to environmental progress. I think that the change from what we requested to, in fact, what we submitted was reflective of the normal kind of interaction we have as we work through a President's proposal.

I think if you look at the letter that Bill sent to OMB as a cover letter with our 1986 request back in September, and if you look at the letter he then sent right about the time he was leaving, where he felt that what we ended up with was a good, strong budget, I think you can see a good comparison there. He pointed out the highlights.

I will tell you that the day the President asked me to take on the job as administrator was the day I got actively involved with Bill in every aspect of the 1986 budget, and I felt that the process was a constructive one with OMB and with the President. I feel that we have ended up with a good, strong budget.

Senator STAFFORD. Does the budget proposed for fiscal year 1985 and fiscal year 1986 provide adequate resources to meet the statutory deadlines in the 1984 amendments to RCRA? If not, please indicate, either now or for the record, what deadlines will not be met on time and when the agency does intend to meet them.

Mr. **Thomas**. Mr. Chairman, we will do that. Let me do that for the record in a letter to you.

Senator **Stafford**. All right.

[The information follows:]

RESOURCES REQUIRED TO IMPLEMENT HSWA

The resources requested for 1985 and 1986 represent our best estimate at this time of what is needed to meet most of the statutory deadlines imposed by the Hazardous and Solid Waste Act (HSWA). Statutory deadlines will not be met for the activities identified below. The delays in meeting the deadlines largely result from the time it takes to gather necessary information for writing regulations, development and submission of information from the regulated community, the need to resolve the many policy issues that arise, and the inherent necessity to set priorities for management attention given the large number of actions required simultaneously under the Act.

Activity	Statutory Deadlines	Agency Schedule for Completion	
		Proposal	Promulgation
Revised underground tank standards	Mar. 8, 1985	Apr. 1, 1985	Mar. 31, 1986
Procurement of paper product containing recovered materials	May 8, 1985	Apr. 1, 1985	Mar. 31, 1986
Procurement Guidelines - Fly Ash, Tires	Nov. 8, 1985	Workplan being developed.	
Hazardous Waste Listings			
- Halogenated Dioxins/ Dibenzofurans	Nov. 8, 1985	Nov. 8, 1986	Nov. 8, 1987
- Refinery Wastes	Feb. 8, 1986	Sept. 8, 1986	Jan. 31, 1988
- Coke by-products	Feb. 8, 1986	Decision whether to list by Jan. 31, 1986	
- Coal Slurry Pipeline	Feb. 8, 1986	Decision whether to list by Jan. 31, 1986	
Hazardous Waste Exports	Nov. 8, 1985	Aug. 8, 1985	May 30, 1986

Mr. Thomas. My intent is that we will meet the deadlines in RCRA. There are some deadlines in RCRA that I don't think we will meet. There are a few deadlines in there that I don't think we would meet if we had all the resources in the world. They just, I think, happened to end up in that bill so stringent that, just procedurally, I don't think we could meet them. Technically, I don't think we could meet them.

There are very few of those—and I don't think they are significant in the sense of the most significant aspects of RCRA. Our intent is to meet those deadlines, and when you look at our work plan on RCRA—and I would like to submit to you some detail on this—we feel we have the resources required to meet the major deadlines, the major components of that bill.

It is going to be tough. I don't want to dissuade you from that. It is going to be very, very difficult for us to meet some of those deadlines.

The technical aspects of pulling together adequate information, the procedural aspects of in fact proposing major rules, taking comments, revising and finalizing those regulations are such that it is going to be very, very difficult. Our intent is to meet them, though.

Small-quantity generators is an example. Banning waste from land is another example. Underground storage tank provisions—all of those major components of RCRA are in fact some of the biggest, most far reaching regulations our agency has ever pulled together, and we have got a very short timeframe to do it. I think those resources will let us do that, but it is going to be tough.

Senator STAFFORD. Thank you, Mr. Thomas.

For the purpose of questions, the last member this morning that we will be able to accommodate will be Senator Mitchell, and we will start tomorrow at 9:30 and follow right through in the order in which questions were being asked today. So the next one after Senator Mitchell will be Senator Lautenberg.

Senator Mitchell.

Senator MITCHELL. Thank you, Mr. Chairman.

Let me move to a different area, Mr. Chairman. I was trying to make up my mind whether to pursue the area that you had started on, RCRA, or to do others.

Let me ask you a broader general question, Mr. Thomas. It seems clear that the Federal Government is, over time, removing itself from the direct funding of pollution control programs or projects and direct implementation of programs and gradually shifting that to the States.

Have you given any thought to how this shift away from direct implementation will affect the agency's functions, structure, and management over time, and have you initiated any steps to assure that you will continue to have the management controls to effectively perform what is really a changing Federal role in this area?

Mr. THOMAS. Senator, we have given a lot of thought to that. As an example, about a year-and-a-half ago, Bill Ruckleshaus established a State-Federal relations task group that looked at a number of those very issues. It is something where I think we need to look at some more specific components that came out of that State-Federal relations task group, and we have begun to initiate some action in that regard.

You are very right in characterizing shifts. Along with shifts, you have changing responsibilities and roles at both levels. It is different in our different programs because you gave us different mandates and different statutes.

For example, under our Chemical Registration and Pesticide Registration Programs, I would anticipate a very strong continuing direct operational responsibility at a Federal level as far as I can see it. That is not a program in which I think we are in the process of moving a major delegation of responsibility to the State.

There are some components of that program, though—for instance, the enforcement component of in fact how that program is being carried out—that in fact have been delegated and will be delegated as we work to build the States' capability, as they are closer to the problem, to work with.

On the other hand, you take RCRA. Clearly, the intent of the law is that we move the management and operational responsibility of that program as close to the problem as we can get it, and specifically the States are laid out as the major element of that.

That in fact, though, I don't think, changes at all a major responsibility and role for EPA. It in fact means that EPA has to build and strengthen its oversight responsibility and clearly define with the States how it in fact will carry out its direct responsibilities, such as listing new wastes, such as writing new regulations, revising regulations, and in fact overseeing how well the States are carrying out their component of the program.

So, for instance, in RCRA we have worked with the States to define what we feel are specific criteria that would be components of a good, well-managed State program. These become the criteria that we then use both in determining how we want to assist the States in building that capability, as well as overseeing the States in how well they meet the criteria. Additionally, we in fact will review their progress toward meeting those standards or take action if they don't take action, and we have begun to work through the details of that.

We have, for instance, a group of State officials with us who are working with our Grant Program—where are we going with our Grant Program; how do we define our Grant Program in all media, as far as the performance measures we are looking for from States.

So it is a changing role, changing responsibility, different for each one of our media. In fact, whether it is enforcement or our Grant Program, we are trying to work through those issues with the States. It is particularly important that the States play a full role with us as we have task groups of staff to work through those issues.

But oftentimes—and this is where I think there often build up misunderstandings on this shifting responsibility—as you shift that responsibility, you in no way, I think, diminish accountability on the part of the Federal or the State. In fact, we at EPA maintain responsibilities and full accountability for the proper implementation of that program, and it is the definition of how we both go forward and implement our responsibilities and maintain this good accountability that is important.

Senator MITCHELL. Your answer prompts me to comment—briefly, I guess.

You won't leave until I finish, will you?

Mr. **Thomas**. No way; no way.

Senator **Mitchell**. My comment concerns the question raised by Senator Lautenberg about the long-term proposals to phase out the Sewage Treatment and Construction Grant Program.

I think we must be very careful of shifting increasing responsibilities to the States and simultaneously terminating the resources that we have been providing the States to meet those responsibilities. That simply, of course, moves the problem to a different venue. It doesn't in any sense solve it.

As we know from the enormous quantity of unmet needs in that area, this still is as important a national problem as it was when we started. We have made great strides, but I hope you will give that careful consideration.

You indicated in response to Senator Lautenberg's question that you are going to consider various alternatives, and we will eagerly look forward to that at the appropriate time in the legislative process, but many of us—I cannot speak for anybody else, I guess, but myself, but I believe there are others who feel the same way—are very deeply concerned about that proposal and what it represents in the way of a setback nationally and merely a shifting of the burden to the States without any ability, then, to deal with it.

I thank you very much, Mr. Chairman, and I thank you, Mr. Thomas.

Senator **Stafford**. Thank you, Senator Mitchell.

The Chair is about to recess this hearing until 9:30 tomorrow, but Mr. Thomas, could you tell us when you might have Superfund legislation available to us that you are preparing?

Mr. **Thomas**. Senator, I am hoping that the administration proposal on Superfund reauthorization will be up here on Friday.

Senator **Stafford**. On Friday?

Mr. **Thomas**. Yes, sir. We have been working to have a full bill that would be presented to you for your consideration, and I am hoping Friday I will have it up here to you.

Senator **Stafford**. All right, thank you.

The committee stands in recess until 9:30 tomorrow morning.

[Whereupon, at 10:25 a.m., the committee recessed, to reconvene at 9:30 a.m., Thursday, February 21, 1985.]

[Mr. Thomas' written statement and responses to written questions follow:]

STATEMENT OF
LEE M. THOMAS
ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

February 20, 1985

Mr. Chairman, Members of the Committee: I appreciate this opportunity to review the status of programs at the Environmental Protection Agency and the President's FY 1986 budget proposals. With me today are the Acting Deputy Administrator, A. James Barnes, and the Assistant Administrators who manage our programs. We believe this budget will provide the Agency with the resources necessary to continue to successfully achieve our statutory objectives and to protect human health and the environment.

This budget not only builds upon the foundation laid in the last two years, but it represents a significant expansion in areas where our responsibilities must be met with increased resources. The budget for 1986 provides us with the resources necessary to continue our momentum at EPA and to effectively address the challenges in every environmental medium.

OVERVIEW

OUR PROPOSED 1986 BUDGET CAN BRING ABOUT SUBSTANTIAL ENVIRONMENTAL PROGRESS OVER THE NEXT SEVERAL YEARS. THE PRESIDENT IS REQUESTING $4.67 BILLION DOLLARS SUPPORTED BY 13,081 WORKYEARS. THE REQUEST INCLUDES $1.4 BILLION DOLLARS AND 11,365 WORKYEARS FOR OUR OPERATING PROGRAMS, $900 MILLION DOLLARS AND 1,716 WORKYEARS FOR THE SUPERFUND PROGRAM, AND $2.4 BILLION DOLLARS FOR MUNICIPAL SEWAGE TREATMENT CONSTRUCTION. OUR 1986 REQUEST WILL INCREASE EPA'S RESOURCES BY $339 MILLION DOLLARS, AND 505 WORKYEARS OVER 1985 LEVELS. THE ADDITIONS AMOUNT TO INCREASES OF 4 PERCENT IN PEOPLE AND 18 PERCENT IN DOLLARS FOR PROGRAMS OTHER THAN WASTE TREATMENT GRANTS.

The increased resource levels proposed in our budget reflect the high priority the President places on the programs administered by EPA. These increases are all the more significant when placed in the context of the overall freeze that has been imposed on many Federal agencies and departments. However, within this increased level of resources, the Agency is supporting the Administration's efforts to reduce the Federal deficit. Our budgets for both 1985 and 1986 reflect this support. We have prepared a rescission package for Congress of over $13 million dollars as part of the statutory mandate. Included in our 1986 budget are two proposed cuts which are also part of government-wide initiatives. The first is a reduction in our administrative expenses; the second is our share of the government-wide five percent payroll reduction.

I would now like to focus on several key programmatic issues that are central to the President's proposed 1986 budget for EPA.

The Control of Hazardous Waste

Uncontrolled hazardous waste sites are clearly the Nation's most pressing environmental problem. During the past year and one half, as the Agency's manager for hazardous waste programs, I gained first-hand knowledge about the technically complex and highly emotional nature of these threats to our citizens and to our environment.

I believe our record during the past two years stands as tangible evidence of our commitment to Superfund. We have aggressively gone about the task of addressing immediate threats at hundreds of sites nationwide. By the end of 1984, we had initiated long-term cleanup action at three hundred sites on the National Priorities List. In order to maintain this momentum, we propose a major increase in resources for the Superfund program in 1986.

THE SUPERFUND PROGRAM WE PROPOSE INCLUDES A 45 PERCENT INCREASE IN DOLLARS AND A 26 PERCENT INCREASE IN WORKYEARS FROM OUR 1985 ENACTED LEVELS. THE MAJORITY OF THIS FUNDING WILL BE USED TO SUPPORT A BETTER THAN TWOFOLD INCREASE IN THE NUMBER OF SITES WHERE WE WILL UNDERTAKE THE FINAL CLEANUP PHASE OF REMEDIAL ACTION. WE ARE ALSO REQUESTING RESOURCES TO GREATLY EXPAND THE AGENCY'S ENFORCEMENT EFFORTS SO THAT RESPONSIBLE PARTIES WILL BEGIN SITE CLEANUP AND TO RECOVER MONIES EXPENDED FROM THE TRUST FUND TO CLEAN UP SITES.

IN ADDITION TO CORRECTING THE NEGLECT OF THE PAST THROUGH SUPERFUND, WE NEED TO PREVENT THE CREATION OF NEW UNCONTROLLED SITES THROUGH THE IMPLEMENTATION OF THE RECENTLY REAUTHORIZED RCRA PROGRAM. TO ADDRESS THE NEW REQUIREMENTS IN A TIMELY MANNER, WE HAVE PROPOSED A $28 MILLION DOLLAR REDISTRIBUTION FROM WITHIN OUR 1985 BUDGET FOR THE AGENCY-WIDE RCRA PROGRAM.

THE PRESIDENT'S 1986 BUDGET FOR THE TOTAL RCRA PROGRAM PROPOSES ADDITIONAL INCREASES OF 146 WORKYEARS AND $54 MILLION DOLLARS OVER THE PROPOSED 1985 LEVELS. TOGETHER, THE REDISTRIBUTED RESOURCES IN 1985 AND THE PROPOSED INCREASES IN 1986 WOULD NEARLY DOUBLE THE HAZARDOUS WASTE PROGRAM RESOURCES IN DOLLARS AND INCREASE BY OVER ONE THIRD IN WORKYEARS OVER 1984 LEVELS. THE 1986 INCREASES ALONE AMOUNT TO AN ADDITIONAL 10 PERCENT IN WORKYEARS AND 26 PERCENT IN DOLLARS. THESE FUNDS WILL FULLY SUPPORT THE AGENCY'S EFFORTS TO IMPLEMENT EXISTING AS WELL AS NEW PROGRAM RESPONSIBILITIES SUCH AS BANNING WASTES FROM LAND DISPOSAL, AND REGULATING UNDERGROUND STORAGE TANKS AND SMALL QUANTITY GENERATORS.

RESEARCH TO SUPPORT AGENCY PRIORITIES

OUR 1986 BUDGET INCREASES THE AGENCY'S EXTRAMURAL RESEARCH PROGRAM BY $23 MILLION DOLLARS, A 12 PERCENT INCREASE OVER 1985. THESE INCREASES ARE FOCUSED IN THREE IMPORTANT AREAS OF RESEARCH: ACID RAIN, HAZARDOUS WASTE, AND PESTICIDES AND TOXICS.

THE 1986 ACID RAIN RESEARCH PROGRAM WILL BE ACCELERATED TO ENSURE THAT TIMELY INFORMATION IS AVAILABLE TO DEVELOP EFFECTIVE, SCIENTIFICALLY SOUND, REGULATORY POLICIES. MAJOR EMPHASIS WILL BE PLACED ON INITIATING RESEARCH THAT:

- DESCRIBES THE SENSITIVITY OF AQUATIC RESOURCES TO ACIDIFICATION AND THE RATE AT WHICH ACIDIFICATION OCCURS;
- ESTABLISHES THE EXTENT AND SEVERITY OF CURRENTLY OBSERVED FOREST DECLINES IN SEVERAL REGIONS OF THE U.S.; AND
- ACCELERATES THE INSTALLATION OF A MONITORING NETWORK FOR DRY DEPOSITION.

THE AGENCY'S ACID RAIN EFFORT WILL INCREASE BY 61 PERCENT TO $60.5 MILLION DOLLARS. TOTAL FEDERAL RESOURCES DEVOTED TO ACID RAIN WILL INCREASE BY 37 PERCENT, FROM $62 MILLION DOLLARS TO $85 MILLION DOLLARS.

THE HAZARDOUS WASTE RESEARCH PROGRAM IN 1986 WILL BE INCREASED IN RESPONSE TO NEW REQUIREMENTS MANDATED BY THE 1984 RCRA REAUTHORIZATION. FOR INSTANCE, THE LEGISLATION'S PROVISIONS RELATING TO HEALTH AND RISK ASSESSMENTS STATE THAT UNLESS THE AGENCY CAN PRODUCE AFFIRMATIVE FINDINGS PROVING NO RISK WILL BE POSED TO THE PUBLIC HEALTH, WE MUST BAN THE DISPOSAL OF HAZARDOUS WASTE ON LAND.

NEW RESOURCES IN TOXICS AND PESTICIDES WILL SUPPORT RESEARCH TO IMPROVE THE AGENCY'S ESTIMATES OF HUMAN HEALTH AND ENVIRONMENTAL RISKS FROM TOXIC CHEMICALS AND PESTICIDES.

ADDITIONAL RESOURCES FOR ENFORCEMENT

WE ARE PROPOSING IMPORTANT INCREASES IN ENFORCEMENT OF 278 WORKYEARS AND $34 MILLION DOLLARS OVER THE 1985 ENACTED LEVELS--INCREASES OF 11 PERCENT AND 21 PERCENT RESPECTIVELY.

TWO-THIRDS OF THE ENFORCEMENT INCREASE SUPPORTS THE SUPERFUND PROGRAM. SIGNIFICANT INCREASES FOR SUPERFUND ARE ESSENTIAL TO MAINTAIN THE MOMENTUM OF THE PROGRAM AND ENSURE AN ENFORCEMENT PRESENCE SUFFICIENT TO AVOID UNDUE USE OF FUND RESOURCES. THE AGENCY WILL CONTINUE TO SEEK PRIVATE-PARTY CLEANUP IN AS MANY CASES AS POSSIBLE TO CONSERVE THE FUND FOR THOSE SITES WHERE THERE ARE NO VIABLE RESPONSIBLE PARTIES. THE 1986 BUDGET WILL ALSO SUPPORT THE MORE COMPLEX COST RECOVERY CASES WHICH WILL RESULT AS LONG-TERM REMEDIAL ACTIONS ARE COMPLETED.

The President's budget also significantly increases EPA's resources for hazardous waste enforcement activities. This increase, 22 percent in workyears and nearly 50 percent in dollars, is necessary to meet the special compliance monitoring and enforcement requirements of the new RCRA legislation.

Additional enforcement resources are also requested in the water quality area for continued work with municipal dischargers through the National Municipal Policy and the pretreatment program. The basic purpose of both programs is to control the discharge of pollutants from publicly owned waste treatment facilities.

OUR PROPOSED ENFORCEMENT INCREASES REFLECT THE IMPORTANCE WITH WHICH WE VIEW THIS AREA OF OUR RESPONSIBILITY. NEXT TO ACTUAL ENVIRONMENTAL RESULTS, ATTAINMENT OF HIGH LEVELS OF COMPLIANCE WITH ENVIRONMENTAL STANDARDS IS THE AGENCY'S MOST TANGIBLE MEASURE OF SUCCESS. FAILURE TO AGGRESSIVELY ENFORCE THE LAW, LEADING TO LOW LEVELS OF COMPLIANCE, WOULD REDUCE THE OVERALL BENEFITS FROM OUR POLLUTION CONTROL INVESTMENTS.

MAINTAINING OUR GRANT ASSISTANCE PROGRAMS

THE EVOLUTION OF ROLES BETWEEN EPA AND THE STATES IS THE KEY TO THE FUTURE OF ENVIRONMENTAL MANAGEMENT. THE INCREASING NUMBER OF PROGRAMS DELEGATED UNDERSCORES THE NEED TO IMPLEMENT A CONSISTENT POLICY ON EPA/STATE RELATIONS.

EPA's 1986 Budget request supports a strong partnership with State and Local governments. The 1986 Budget allocates a total of $278 million dollars for grant assistance programs. All grants directly supporting state operations continue at their full 1985 enacted levels, except for hazardous waste state grants which increase by almost $8 million dollars. The increase for the hazardous waste grants will provide additional support for regulating underground storage tanks and small quantity generators as well as continued implementation of the National Permits Strategy.

The President's 1986 budget continues to maintain our commitment to the Chesapeake Bay and Great Lakes programs. We propose to continue Federal support in this, the second year, of the cleanup program for the Chesapeake Bay. This $10 million dollar level of EPA support is designed to help the Bay States primarily through cost-sharing grants while continuing EPA's role in monitoring and modeling. We also propose $6.1 million dollars for the Great Lakes program. In addition, our budget request maintains the $4 million dollar support for the Estuarine program, created this past year, for water quality management in four important coastal water bodies.

For our largest grant program, construction grants, we are proposing $2.4 billion dollars in 1986. The request represents the first step of a four year phase out of the program. Because the current authorization for the program expires at the end of 1985, we are currently developing a reauthorization proposal, the details of which are not yet complete. However, we anticipate that the proposal will reflect a reduced Federal role in terms of financing while at the same time maintaining a commitment to fund existing projects which have previously received Federal funds.

CONCLUSION

THE PRESIDENT'S BUDGET REQUEST FOR EPA IS SIGNIFICANT. THE INCREASES, OF NECESSITY, FOCUS ON THE PROBLEM OF HAZARDOUS WASTE DISPOSAL. OUR OTHER PROGRAMS ARE ALSO FUNDED AT LEVELS THAT WILL STRENGTHEN EPA'S REPUTATION FOR RESPONSIBLE ENFORCEMENT OF THE ENVIRONMENTAL LAWS. THESE LEVELS ALSO RESPECT THE COMPLEMENTARY ROLES OF STATE AND FEDERAL ENVIRONMENTAL AUTHORITIES AND ACCELERATE THE QUEST FOR KNOWLEDGE ESSENTIAL TO THE PRUDENT, EFFECTIVE MANAGEMENT OF ENVIRONMENTAL RISKS. IN SHORT, THIS BUDGET EMPHASIZES THE CONTINUED IMPLEMENTATION OF KEY AGENCY PROGRAMS.

INCINERATION-AT-SEA
RESEARCH STRATEGY

FEBRUARY 19, 1985

U.S. Environmental Protection Agency
Office of Water

1.0 INTRODUCTION

1.1 Previous Research

The Environmental Protection Agency (EPA) has been involved in ocean incineration research for over 10 years. Starting in 1974, a series of 4 research burns have been conducted under EPA permits to gather scientific information about the incineration of liquid hazardous wastes at sea and to evaluate ocean incineration as an alternative to various land based disposal options. These research burns were conducted under the authority of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, and the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Dumping Convention).

The major objective of these research burns was to determine if the incinerator could be operated efficiently and could attain the minimum acceptable destruction efficiently (DE) required for the particular waste being incinerated. This determination was necessary because the permits were defined by incinerator operating conditions rather than being specific to the toxicities of the emissions. Environmental monitoring has been conducted and the emissions have been analyzed for specific products of incomplete combustion. Plumes have been followed and sampled by ships and planes in an effort to trace the dispersion of the emissions over the ocean, and marine water samples have been collected for analysis of possible emission constituents. Caged marine organisms have been exposed in the incinerator area to determine if any effects could be observed. No products of incomplete combustion (dioxins or furans) were identified in the emission samples and no potential toxic emission products were observed at elevated levels in the environment.

During these past ten years, the scientific community has developed several different methods for sampling incinerator emissions for DE. These basic procedures have been used in the ocean incineration research burns. The complexities of sampling at sea and the peculiarities of ocean incinerators has led to the use of modifications of the accepted land based methods. The research burn results indicated that incineration at sea could be a viable technology for destroying hazardous wastes. However, the previous studies did not address a number of questions and issues which have subsequently emerged. This research strategy is proposed to address these questions.

1.2 Relationship of This Strategy to Other Agency Activities

On May 22, 1984, the Agency decided not to grant special (i.e. operational) incineration-at-sea permits as requested by Chemical Waste Management and Ocean Combustion Services. That decision was based on:

(a) deficiencies in available information considered by the Agency in determining the need for incineration at sea;

(b) the lack of specific EPA regulations for incineration at sea; and

(c) the fact that the research permits recommended by EPA's Hearing Officer after a public hearing in Brownsville, Texas had never been the subject of a tentative determination, of a public hearing, or of public comment.

While the requested special permits were denied, future use of incineration at sea was not ruled out. Rather, EPA deferred permit issuance until completion of a more deliberative approach for ocean incineration. To that end, EPA began development of a research strategy that would respond to the needs of the program and to propose specific regulations for ocean incineration.

EPA is currently developing specific regulations by applying the Agency's experience with land-based incineration facilities and ocean incineration vessels. In addition, as a Contracting Party to the London Dumping Convention (LDC), EPA is bound by the LDC "Regulations for the Control of Incineration of Waste and Other Matter at Sea" (Regulations) and is required "to take full account of" the "Technical Guidelines" implementing the Regulations to the extent the requirements of the Marine Protection, Research, and Sanctuaries Act (MPRSA) are not relaxed. The Agency also considered extensive public comments on the "Tentative Determination To Issue Special and Research Permits to Chemical Waste Management" (48 FR 48986, October 21, 1983) in preparing the proposed regulations.

In recognition of the questions regarding: the environmental efficacy of incinerating liquid wastes at sea; the environmental and human health risks involved in the process; the risks involved in transportation and loading activities that support incineration at sea, particularly the risk of a catastrophic spill; the need for incineration at sea; and public acceptance of incineration at sea to support this hazardous waste disposal option, the Agency has also initiated an "Incineration Study" in addition to this research strategy.

The Agency's Incineration Study is to provide an analysis of the technical, economic, and environmental benefits of, and problems with, incineration as a means of disposing of combustible liquid hazardous wastes. Both land-based and at-sea incineration are being assessed with respect to capability, risks and economics in order to make comparisons between the two technologies. Currently available data is being used in this effort. Other technologies with potential for treating or disposing of combustible liquid hazardous wastes such as pyrolysis and wet oxidation, are also being assessed.

The analysis included in the Incineration Study will discuss the risks of land-based and at-sea incineration, the efficacy of the technology, and the capacity of existing incineration facilities to meet present and future demand for incineration under different regulatory scenarios. The regulatory scenarios that will be examined include potential restrictions on land disposal and deep-well injection of hazardous wastes, the use of hazardous wastes in industrial boilers, and the elimination of the small hazardous waste generator exemption. The risk of spills from ocean-going vessels will also be addressed.

The Incineration Study should put into perspective the risks and uncertainties of ocean incineration as compared to the available land-baed alternatives using the technical information currently available. This research strategy is being designed to allow EPA to obtain more detailed data which will be needed to more accurately evaluate these risks.

1.3 Development of This Research Strategy and Future Plans

The research strategy is designed to address the issues of concern and provide a strategy for organizing the research necessary to determine the human health and environmental risks of at sea incineration.

Legal, policy, regulatory and procedural issues are not within the scope of this strategy. Only the risks of incinerator operation are included because the risks related to issues such as spills, fugitive emissions, etc., are being evaluated in the Agency's overall "Incineration Study." Long-term environmental monitoring is also not addressed in this research strategy but is the subject of another document being developed by EPA.

In July 1984, a scientific working group which included scientists from EPA's Office of Research and Development who have been deeply involved in the Agency's incineration program, met to prepare a strategy for gathering the information to address the major scientific issues of concern.

The scientific work group was asked to develop a strategy to meet the following three objectives:

1. Define the major technical and operational issues related to incineration at sea permits and of concern to EPA, the public and the scientific community;

2. Provide the incineration at sea industry with a scientifically valid program design for gathering information to address these issues; and

3. Provide the Agency with a basis for making future decisions on ocean incineration permit applications.

Major scientific/technical issues generated by the public regarding ocean-based hazardous waste incineration were organized under four headings. These four headings serve as an organizational framework for the research strategy (Table 1).

The working group was directed to develop a research strategy which would address the information needs of as many of the issues as possible. The work group developed a strategy with each member contributing in his own area of expertise. The research strategy does not address long-term environmental monitoring or many of the issues covered in the "incineration study." Only research is addressed.

The draft strategy was circulated and was the focus of a public meeting held in Washington, D.C., on November 13, 1984. The comments received from the public on the draft strategy were then the focus of another EPA Task Force meeting on December 19, where the draft strategy was modified and the current document developed.

EPA plans to have this document and the actual subsequent research plans for the strategy reviewed by qualified scientists prior to implementation. The reports resulting from this work will also be reviewed by a qualified scientific group.

2.0 OVERALL STRATEGY

2.1 Summary of the Research Strategy

The major focus for the research strategy is the development of a rational, scientifically defensible, methodology for an updated environmental risk assessment of hazardous waste incineration at sea. The alternative approach of monitoring an area around the site before, during, and after incineration to measure environmental concentration of pollutants and ecological effects will not generate an acceptable environmental risk assessment. Risk assessment is a confidence-bounded estimate of the probability of unacceptably altering the aquatic environment as a result of hazardous waste incineration at sea. The estimate is derived from a comparison of the predicted organism exposure concentrations of pollutants with concentrations that cause adverse biological effects.

TABLE 1

The specific issues that were developed from public comments are grouped under the few major headings of emissions, exposure, effects and site selection.

1.0 Emissions

1.1 General Issues

1.1.1 What are the emissions from ocean incineration?

1.1.2 What is the relationship between emissions and incinerator specifications, operating conditions and waste feedstock characteristics?

1.1.3 What are acceptable parameters for continuous monitoring which are related to emissions?

1.1.4 What effect does the addition of control technologies have on emissions?

1.2 Specific Issues

1.2.1 What are the types and quantities of products of incomplete combustion (PICs) generated by the types of wastes and incinerator operating characteristics proposed for operational and research burns at sea?

1.2.2 What are alternative parameters (e.g., total unburned hydrocarbons or total organochlorides) for monitoring total PIC emissions?

1.2.3 Is it necessary to identify and measure all PICs as well as principal organic hazardous constituents (POHCs)?

1.2.4 What happens to PIC production during upset (clogged burner, etc.) conditions?

1.2.5 What are the sampling protocols, detection limits and quality assurance requirements for monitoring ocean incineration emissions?

1.2.6 What sampling procedure should be used to obtain a representative sample of the entire stack?

1.2.7 Within the regulatory window, what is the relationship between destruction and combustion efficiencies over a range of conditions of CO_2, CO, etc.?

1.2.8 Should destruction efficiency (DE) be measured continuously, throughout all burns?

1.2.9 Should combustion efficiency (CE) be based on total carbon in waste, and not just the oxidized emissions?

1.2.10 What is the relationship between PIC production and destruction/combustion efficiency?

1.2.11 What performance standards and specifications should be met during ocean incineration burns?

1.2.12 What are the organic compounds found in the plume when it reaches ambient temperatures and what are their concentration levels?

1.2.13 What are the emission levels of metals and chloride during ocean incineration?

1.2.14 Should research protocols be tested with non-toxic substances prior to burns involving liquid organic hazardous wastes?

2.0 Exposure

2.1 General Issues

2.1.1 How do we measure and model transport and dispersion of the plume generated during ocean incineration?

2.1.2 How do we verify model predictions?

2.1.3 To what extent do these substances in the plume persist in the atmosphere and enter the microlayer and water column?

2.1.4 To what extent is the biota exposed to these substances?

2.2 Specific Issues

2.2.1 What is the potential for uptake, concentration and transport by each of the following: eddies, slicks (microlayers), particles, bubbles, winds, waves, thermoclines, currents, and precipitation (wet deposition)?

2.2.2 How is the rate of uptake and residence time of emissions components in the microlayer measured?

2.2.3 Are plume spiking (e.g., with perfluorocarbons) and tracking needed?

3.0 Effects

3.1 General Issues

3.1.1 What biological and ecological effects result from exposure to ocean incineration emissions?

3.1.2 What human health effects result from ocean incineration?

3.2 Specific Issues

3.2.1 To what extent do emission components which accumulate in the surface microlayer cause adverse impacts in the microlayer?

3.2.2 To what extent do emission components bioaccumulate in food chain organisms exposed to the microlayer and water column?

3.2.3 What are the aquatic organism acute and chronic toxicities of specific emission components and byproducts and how do they compare to the toxicities of the dispersed and the undispersed plumes?

3.2.4 What levels of emissions cause behavioral or sublethal population and ecosystem effects?

3.2.5 What species can be used as indicators of adverse impacts (e.g., the Mussel-watch Program) at incineration sites?

3.2.6 How can current models for predicting human and ecological effects from ocean incineration be improved?

4.0 Siting

4.1 General Issues

4.1.1 What are characteristics of a site which make it suitable for incineration?

4.1.2 How can the long-term assimilative capacity of a site for incinerator emissions be assessed?

4.2 Specific Issues

4.2.1 What are criteria to identify areas with "redundant" ecosystems as candidate sites for incineration?

4.2.2 What parameters should be measured to determine the capacity of a site to handle additional incineration without causing adverse impacts?

4.2.3 What additional information is needed at undesignated sites?

Given the scientific concerns regarding previous research, EPA has developed this research strategy based upon what appears to be the three most important issues that need to be addressed (area 1 and 2 below) to develop an adequate risk assessment for incineration at sea, and tests that may need to follow (area 3). These areas are:

Area 1 - Methods development for aquatic toxicology tests and emissions sampling

Methods need to be developed for determining the aquatic toxicity of incinerator emissions. This will involve the development of a system for removing a known volume of emissions from an incinerator with subsequent incorporation of these emissions into seawater which would then be subjected to various bioassays to determine its toxicity to various standard laboratory aquatic test organisms. If possible, preliminary toxicity tests will be conducted using emissions from a land-based hazardous waste incinerator to field test the system and obtain information describing the possible toxic effects of real incinerator emissions (range finding).

Tests also need to be conducted at either a land-based or at-sea incinerator to determine the need for stack traversal while collecting high temperature, low particulate emissions for subsequent chemical characterization or toxicity testing.

Area 2 - Monitoring of incineration-at-sea operations

During incineration-at-sea operations, emissions need to be collected for chemical characterization and toxicity testing. Environmental sampling during these operations is also needed to determine if emissions can be detected in the environment near the incinerator and if environmental effects can be detected. This sampling is also needed to modify/verify emission transport models.

Area 3 - Additional research

Studies will be needed to evaluate the environmental impacts of alternative incineration-at-sea technologies and wastes. Other studies which may be conducted include detailed studies of transport and fate of emissions in the air and water column, toxicity studies using organisms indigenous to burn sites, and long range chronic studies of emission toxicity and bioaccumulation.

There is a substantial difference between a risk assessment based on a specific hazardous substance and the planned risk assessment based on hazardous waste emissions from an incinerator. The planned assessment is much more complex because the emissions are difficult to sample at high temperatures, may be in 2 phases (gas and scrubber water), and only poorly characterized. The emitted material is potentially a complex mixture composed of small amounts of the original waste material, partly destroyed original material, and new compounds generated during the incineration phase or during the cooling of the emitted gases in air or in scrubber waters.

Even if the emissions can be fully quantified and characterized, this will not yield the needed toxicity and environmental exposure information. Incinerator emissions are complex materials with potentially additive, synergistic, or subtractive interactions of toxicological properties. The approach of defining the composition of the emissions and developing a toxicity data base for each constituent would require extensive chemical analysis and long, expensive toxicity testing. Instead, EPA plans to chemically analyze the emissions in an effort to identify the most abundant substances present and to treat the emissions as a complex mixture to conduct a risk assessment based upon the toxicity of the mixture itself.

To obtain the needed toxicity information, methodology will be developed to trap the emission and introduce it in a controlled manner into laboratory aquatic systems to create a known dilution of emissions in sea water. The emissions will be directly introduced into a water media which will subsequently be used to dose aquatic laboratory test systems.

When this methodology has been developed, some preliminary tests on standard test animals, which have documented tolerances to a wide range of toxic substances, will be conducted at an onshore facility. Additional tests at a land-based hazardous waste incinerator may be conducted as a preliminary assessment of the aquatic toxicity of emissions which may be expected during at-sea incineration operations.

An at-sea research burn would then be conducted where the newly developed emission toxicity sampling and bioassay procedures would be used. Emission samples would also be collected for chemical analysis, and environmental samples would be collected for plume fate and transport model verification.

The field measurement program is also designed to respond to EPA concerns and issues raised by the public and scientific community on incinerator destruction efficiency variability during normal operation of the incinerator, the characterization of the emissions, and the fate of the emissions leaving the stack. Simultaneously, a control area of the site region will be monitored for background information.

Because very small amounts of unburned waste material may pass through the incinerator, EPA plans to burn polychlorinated biphenyls (PCBs) as the first waste material to be subjected to a research burn. This will enable EPA to use the large existing toxicity data base for PCBs for comparison to the toxicity data obtained from the proposed tests. The PCB waste material can also be more easily characterized than a complex waste composed of several toxic constituents.

By combining the results of the emission bioassay dose-response tests and the plume transport and exposure models, EPA intends to estimate the potential impact of the emissions on the environment (risk assessment). Field samples collected during the research burn from control and plume areas will be used in an attempt to verify the existence of impacts in the plume touchdown area.

Risk assessments will be conducted at several stages in the strategy at a series of exposure conditions. This will allow derivation of a risk assessment for operation of incinerator vessels at some prescribed level of efficiency. The risk assessment process will be tiered as appropriate to examine acute, chronic, and genotoxic effects of a range of spatial and temporal environmental concentrations.

Data and risk assessments generated from implementation of this strategy will be useful for decision making on incineration-at-sea permits and for incineration site management.

Specific activities anticipated to occur in each of these three areas of this strategy are briefly outlined below.

2.2 Area 1 - Method development for aquatic toxicity tests and emissions sampling

° Toxicity Test Sampling System Development

This will require the design, development and fabrication of an emission sampling system which can draw hot emissions from an incinerator system and incorporate the emissions to a volume of synthetic sea water.

This system must be capable of removing organics from the emissions and will subsequently collect HCl and water vapor. Its development will therefore require consideration of the extra volume of water which will be collected and the need for pH and oxygen adjustments that may be needed prior to use in bioassays.

- Sampling System Performance Testing

There will be an initial testing of the system using an easily accessible combustion chamber such as a small-scale incinerator or fuel oil burner.

Emissions will be collected from the exhaust duct using the newly developed sampling system. The water from the system will then be subjected to a series of lab tests to evaluate the usefulness of the overall sampling system. Emissions may need to be spiked with water vapor, HCl, and organic substances to approximate real incinerator emissions.

Tests will be performed to evaluate the effect of the collection procedure on the quality of the sample water. These tests will include:

- the effect of, and necessary counter-measures for, the decreased salinity due to collection of water vapors
- the effect of, and necessary counter-measures for, the the decreased pH due to HCl collection
- the effect of temperature during sampling
- the effect of particulates collected during sampling
- the effect of, and necessary counter-measures for, changes in buffering capacity due to the collection procedures and substances collected

Tests shall also be performed to determine the appropriate species and bioassay endpoints which will become the major focus of future bioassay tests. The species and endpoints to be considered will include:

- fish embryo/larvae tests for hatch viability and growth. Test durations of 48 and 96 hours will be considered
- molluscan larvae 48-hour growth tests and shell development success
- crustacean larvae (mysids and grass shrimp) survival and growth at 48 and 96 hours
- zooplankton (nauplii or juvenile copepods) survival at 48 and 96 hours
- phytoplankton growth for 48 and 96 hours

Additional consideration will be given to the necessary handling procedures of the sample bioassay water between collection and use. These will include evaluation of the need for immediate use versus acceptable storage and transport procedures.

When the sampling and bioassay procedures are developed, preliminary field testing may be conducted at a land-based hazardous waste incinerator if available. Samplers at this type of facility will present some of the same sampling conditions as an at-sea incinerator and the emissions themselves should be similar. Emissions collection can be conducted at a land-based incinerator and the methods for exposing test animals to the emissions can be tested. This approach will allow range finding tests to be conducted and will permit the field testing of the overall procedure while avoiding the complications of conducting an at-sea research burn.

Fuel oil will be burned during part of these tests for "blank" information since many PCB wastes contain fuel oil, and samples will also be collected while PCBs are being incinerated.

° Incinerator Emission Sampling Point/Points Determination

A series of tests will be conducted to examine the need for traversing a section of the incinerator stack while collecting emissions for subsequent chemical characterization or toxicity testing. These tests may be conducted during an at-sea research burn, on shore at a land based hazardous waste incinerator, during a fuel oil dockside burn of an at-sea incinerator, or at a combination of the three locations based upon the availability of a suitable location for the tests.

The incinerator stack or duct will be sampled for determination of combustion efficiency using a traverse across the stack or duct. Velocity, CO, CO_2, and O_2 will be measured using EPA Methods 1 through 3. Three full traverses will be conducted with measurements taken at each cross-sectional sampling point.

Additional tests at the land-based hazardous waste incinerator or during an at-sea research burn when PCBs are being destroyed, will again include sampling the single point and traverse sampling points, but this time a modified Method 5 procedure will be used for organics collection. The samples will be analyzed for PCBs (as will the PCB fuel), and destruction efficiency will be calculated. Particulate samples will be collected at each individual point in the traverse and weighed for determination of the variability in particulate loadings across the stack.

The results of the particulate CE and DE single-point and traverse analyses will be compared to determine the need for traversing stacks in future studies. If CE should show a constantly low value at a specific sampling point, this point will be used for the single-point DE determination. If this point shows equivalent or lower DE than the traverse samples, then it may be used by EPA in future tests as a worst case. If the single point and traverse CE's and DE's are not statistically different, traversal may not be required in future tests.

The oxygen concentrations in the gas at the stack sampling points of an at-sea incinerator will also be useful in determining if ambient air is intruding down into the stack to the sampling level. The analysis will allow EPA to determine if the sampling ports in the stack should be lowered, moving them farther from the exit plane of the stack.

2.3 Area 2 - Monitoring of incineration-at-sea operations

A - Emission Characterization

° Emissions will be collected for subsequent chemical characterization. Samples will be collected using either the EPA Modified Method 5 (MM5) Sampling System or Source Assessment Sampling System (SASS) for semivolatile organic analyses, and the Volatile Organic Sampling Train (VOST) for volatile organic analyses. Sampling points in the stack will be determined based upon the results of the "Area 1" studies.

Emission samples will be analyzed using gas chromatography/mass spectroscopy (GC/MS), gas chromatography/electron capture (GC/EC) and other methods to identify and quantify the most abundant compounds observed in GC/MS scan chromatograms (including PCBs, dioxins, furans and other chlorinated organics).

° Emissions samples will be collected for subsequent total organohalogen (TOX) analysis using a GC/Hall Detector technique.

° Total unburned hydrocarbons, plus CO, CO_2 and O_2 will be monitored continuously.

° Emissions will be collected for determination of particulate levels at various points across the stack.

- Sampling will occur during normal operation of the incinerator (including upsets if they occur).

B - Exposure and Effects

- Incineration Research Site Selection

Prior to the implementation of the ocean research burn of hazardous waste, an environmentally acceptable site will be selected specifically for the burn.

Information will be collected on the geographic, physical, chemical, and biological characteristics of the research site. Physical information will include data on currents, hydrology, and meteorology.

- Environmental Control Sampling

Immediately prior to an at-sea research burn (on the order of days) and during the burn, an environmental control study will be conducted at the site.

- Chemical concentration data will be collected on samples of biota living in surface waters at the site (neuston), as well as in the air and water to establish background concentrations of any emission related contaminants.

- Air samples will be collected and analyzed for several types of substances. Air will be sampled for organic substances using a high volume filtering system which uses polyurethane foam plugs to trap organics. HCl in air will be measured using a real-time HCl analyzer, such as a Geomet HCl analyzer, which has the needed sensitivity.

- Water samples will be collected using several procedures. One procedure will be a high volume polyurethane foam plug filtering system for organics collection and the other will be a syringe sampling method for sulfurhexafluoride (SF_6) or perfluorinated hydrocarbon (PFH) determination. Water bottles will be used to collect water for pH, alkalinity, temperature, salinity, chlorophyll, and ATP determinations.

  - Neuston will be collected using standard neuston nets, and the catch will be taxonomically identified into major groups and analyzed for organic residues.
  - Background SF_6 or PFH levels (plume tracers) will be measured in air using either a continuous monitor or a grab sample - GC/EC procedures.
  - Chemical analysis of the samples will be conducted using the previously described methods for waste and emissions samples and will be conducted after the emissions samples have been analyzed.

° Environmental Sampling in the Research Burn Area

Samples will be collected during the research burn in the vicinity of the incinerator vessel.

- Samples of air, water and biota will be collected in the plume area.
- Chemical analysis of the environmental samples will be the same as for the control samples and will not be conducted until the substances present in the emissions samples are identified. The environmental samples will then be analyzed specifically for these substances.
- Air samples for HCl and SF_6 or PFH analysis will be collected in the plume.

° Transport Model Development

Appropriate atmospheric and aquatic transport models will be selected to predict transport of the emissions over and in the water to the point where they are indistinguishable from the background.

° Transport Model Verification

The results of the environmental sampling during the research burn cruise will be used to verify the transport models.

° The atmospheric transport models will be empirically calibrated with the HCl in the plume and emission plume markers such as SF_6 and PFH.

° In addition, limiting atmospheric conditions for incineration will be identified, and best- and worst-case scenarios of environmental exposure determined.

° Biological Effects Assessment

The impact of emissions on biological processes in the marine environment will be assessed from laboratory studies conducted with stack emissions that have been collected during the ocean research burn. These emissions will be collected using the procedures developed in Area 1 of this strategy.

- Test organisms will be obtained for bioassays and will include the standard test species for which we have extensive comparative toxicological data.
- Test organisms will be exposed to concentrations of the emissions including the expected/measured range of water column concentrations.
- To insure that the toxicological data developed for this plan are quality-assured and meet the requirements of good laboratory practice, the following standard test protocols will be used:

  a. ASTM Standard Practice for Conduct of Acute Toxicity Tests with Fishes and Invertebrates.

  b. ASTM Standard Practice for the Conduct of Acute and Chronic Tests with the Mysid Shrimp, *Mysidopsis bahia*.

  c. ASTM Standard Practice for the Conduct of Early Life Stage Tests with Fishes.

  d. OPTS Interlaboratory Calibration Studies with Oyster Larvae.

  e. OPTS Interlaboratory Calibration Studies with Penaeid Shrimp.

  f. OPTS Interlaboratory Calibration Studies with Marine Algae.

- Estimates of the potential bioaccumulation of toxic pollutants in the emissions will be predicted from estimated trophic level productivity structure activity and the log of the octanol-water equilibrium partition coefficient for the substances identified in the emissions and, depending on these results, direct measures of tissue residues will be attempted on chronically-exposed species as dictated by tissue sample size and analytical detection levels.

2.4 Area 3 - Additional tests

- Tests can be conducted to determine the transport properties of emissions through various media including air, microlayer, surface water, deep water and sediments.
- Emissions toxicity tests can be conducted using indigenous organisms from incineration sites, and more complicated toxicity tests could be developed and used.
- Tests for bioaccumulation in indigenous species and food chains can be investigated.
- Areas 2 and 3 type tests can be conducted using various waste materials.
- Areas 2 and 3 type tests can be conducted using different incineration vessels or other incinerator designs.
- Tests can be conducted to determine if cooling of emissions in the plume or scrubber changes their chemical composition.
- Tests can be conducted to determine the effects of possible incinerator upset conditions on DE, CE, and emission composition.
- Tests can be conducted to determine the physical form and characteristics of substances in the emissions (i.e., particulate, droplet, and gaseous form).
- Tests can be conducted for additional verification of the applicability of current emissions sampling methods (particularly the Modified Method 5 procedure for organic substance collection) when sampling at high temperature and acid conditions.

3.0 RATIONALE FOR SPECIFIC PLAN COMPONENTS

3.1 Emission Characterization Considerations

3.1.1 Overview

One of the essential elements to an understanding of the impacts from ocean incineration is an accurate determination of the types and quantities of substances emitted from the incineration system. These include unburned waste materials and substances formed inside the incinerator as products of incomplete combustion.

Another essential element is an understanding of the combustion process to the extent that easily monitored substances/parameters can be realistically used as surrogates for continuously measuring all the substances being emitted from the incinerator.

EPA has been increasing its knowledge and understanding of both these issues for many years regarding on-shore and ocean incineration. Methods have been developed for collecting/analyzing/monitoring samples for constituents in addition to the several emission gas constituents currently being used to continuously monitor incineration to ensure proper operation.

EPA's emissions analysis and monitoring techniques are continuously evolving and have been developed and used largely at land-based incinerators or other types of on-shore combustion facilities.

Questions have been raised as to whether the newest, state-of-the-art techniques for emissions sampling, analysis, and monitoring have been used on ocean incinerators, and whether these procedures are actually applicable or necessary to ocean incinerators due to the high stack gas temperatures, high HCl concentrations, cyclonic flow in the short stacks, and low particulate levels.

Several ocean incineration research burns have been completed in the past. During each burn, testing for destruction efficiency of the major waste components was done using the best technology available at that time. Certain issues have not been fully addressed during previous incineration burns and the associated analytical studies. In retrospect, there are three main technical areas which are now viewed as deficient. These areas are described separately below.

A. Rigorous Testing of Performance According to Best Available EPA Methods:

EPA has not fully applied the Agency's most rigorous stack sampling methods such as stack traversing with isokinetic collection of emissions during past research burns. Also, the previous evaluations were only designed to test for compliance of earlier incineration-at-sea requirements for 99.9 or 99.99 percent destruction efficiency (DE), and some were insufficient in sampling time duration to show whether the land-based regulatory requirements for DRE of 99.9 to 99.9999 percent were being met, or whether any significant quantification of particulate matter emission was accomplished. Although the previous work which EPA has reviewed is accepted as valid and accurate, public comments and recent or proposed revisions to Agency policy now dictate that the above deficiencies in this area should be addressed through additional research and testing. The additional research tests would include longer (e.g., 8 hours versus 2 hours) sampling, fully traversing the stack(s) isokinetically (or providing suitable justification that traversing is not necessary), and quantifying the particulate matter.

B. A Complete Chemical Characterization of All Incinerator Emissions:

Previous work with incinerator ships concentrated on destruction efficiencies but failed to quantify fully the amount of all the other substances in the stack emissions. Although a similar deficiency exists in most of EPA's land-based incinerator performance data, recent comments request that the Agency close this data gap in any future incineration tests whether for land or at-sea incinerator performance.

EPA recognizes that identification and quantification of "all stack effluents" rather than just the major PCB and selected emission substances may be impractical in terms of the cost and time. However, the analytical search should be expanded to the greatest practical extent.

C. Potential for Changes in Stack Effluent Chemical Composition Upon Leaving the Stack:

Previous at-sea incinerator performance evaluations did not evaluate the potential for further chemical changes (e.g., chemical reformation or recombination of molecules, etc.) in scrubbers or within the stack effluent gases upon leaving the stack exit plane and entering the cooler atmosphere immediately above or downstream of the ship. Such studies have also not been conducted for land-based incinerators; however, EPA agrees that this is an area which merits investigation, particularly for those incinerators which discharge hot effluents directly into the atmosphere. Although it is likely that hazardous compounds passing through the incinerator hot zones become disassociated, oxidized, and separated such that they will not further change or recombine, a test of the "permanency" of separation and its "stability" would be a significant piece of information to demonstrate incineration effectiveness.

In response to the data needs described above and elsewhere, a series of at-sea incineration research burns should be conducted to provide sufficient amounts of emission contaminants for various tests to (1) demonstrate the destruction efficiency of designated organic compounds, (2) demonstrate particulate collection and quantification in stack emissions, (3) demonstrate the production and survival of other chemical compounds during the incineration process, (4) demonstrate whether reactive products are produced in the plume as cooling occurs, (5) aid in plume model validation studies and biological testing, and (6) demonstrate the effects of liquid scrubbers on stack emissions. The following sections address these data needs.

3.1.2 Development of Emissions Sampling Methods

In order to characterize adequately the emissions from at-sea incineration of hazardous waste, a test burn should first be conducted to determine the optimum sampling and analysis procedures.

EPA's land-based RCRA and TSCA trial burn procedures and stack sampling procedures require that the incinerator effluents be sampled isokinetically at a number of individual points (typically 12 points) across each of two perpendicular diameters of the stack. While this elaborate and costly procedure is not absolutely known to be necessary (versus single-point readings), it nevertheless has been required on all land-based incinerator trial burn testing.

TABLE 2

RESEARCH STRATEGY

Area 1	Area 2	Area 3
Methods Development and Range Finding	Use of New Methods At-Sea (Research Burn)	Additional Tests and Research to Update Risk Assessment (Yearly)
° Develop emissions sampling technique for toxicity testing. ° Develop appropriate toxicity tests. ° Determine appropriate emissions sampling procedure for subsequent chemical characterization and toxicity testing. ° Obtain toxicity data from a land-based incinerator if possible.	° Baseline and environmental monitoring. ° Emissions sampling for chemical analysis. ° Emissions sampling for toxicity tests. ° Transport model development and verification. ° Risk assessment.	° Emissions transport testing in lab situation. ° Toxicity testing with other organisms and various methods of exposure and exposure times. ° Area 2 tests using other vessels in research or trial burns. ° Area 2 tests using other wastes. ° Other tests as required.

TIME

Recently, EPA has reviewed the need for traversing by examining the typical turbulence/mixing/Reynolds number levels in most incinerator stacks. They found that, in most cases, the flow patterns are extremely turbulent and rarely laminar. If good mixing and uniformity across any diameter of stack effluents can be verified, then traversing should not be necessary. Because of the large stack diameters, the extreme heat, and the necessity for personnel to be in unsafe locations during some of the traverse procedures, traversing during waste burning at sea is both hazardous to personnel and costly. This strategy suggests conducting traverse/single point comparison tests on at-sea incinerators with the alternate use of dockside nonhazardous fuel (diesel oil) stack emissions testing if these tests cannot be conducted at sea.

This at-sea or dockside emissions testing will provide meaningful information on the variation across stack diameters of velocity, CO, CO_2, O_2, THC, NO, etc. It will also provide information showing the relationship of the particulates obtained from single-point samples at all the traverse points. These parameters will help to determine if variations are significant and therefore justify requiring traversing during sampling. Alternatively, should these tests identify a point of "worst emissions," the option for placing a single-point probe at these points may be considered during waste burns. Traverse vs. single point DE tests may be conducted at a land-based hazardous waste incinerator for the collection of data to supplement the dockside data.

EPA has reviewed data submitted by a permit applicant which shows clearly the combustion products for an oil burn would be similar to an actual hazardous waste burn, except for the chlorine content of a chlorinated waste. The chlorine content may be in the 3 percent (by weight and volume) range. Therefore, it appears that data from an oil burn would be representative, in a fluid dynamics/flow pattern sense, of the flow of hazardous waste emissions from an incinerator stack under the same velocity and net flow rate conditions, etc.

The recognized EPA methods for collecting organic substances for DE determination include the Modified Method 5 (MM5) train for organic sampling, the Source Assessment Sampling System (SASS) train, which is a larger version of the MM5 capable of collecting five times the organic sample as the MM5, and the Volatile Organic Sampling Train (VOST). Both the MM5 and the SASS trains collect organic compounds which boil over 100°C, while the VOST collects organic compounds in the 30-100°C boiling range. EPA Methods 1 through 4 will be used to obtain gas flow information from the stack.

3.1.3 Determination of the Composition of Incineration Emissions

The results of the Area 1 tests will be used to design the procedure for collecting the emissions from the incineration of hazardous waste at sea. This will require use of either the single-point or traverse procedure, whichever is appropriate, for collection of high volumes of stack gas.

3.1.3.1 Fuel Oil Control Test

When the incinerator vessel is at the incineration site, a one-day test will be conducted using fuel oil for comparison to the dockside fuel oil test if it is conducted. The results will be used to determine if being at sea has any effects on either the incinerator combustion efficiency or the sample collection efficiency.

3.1.3.2 Emissions Sampling

Emissions samples will be collected with the MM5 or SASS train for subsequent trace chemical analysis. Ambient air will also be collected during the hazardous waste burn at sea as a background control using the same collection system as is used in the stack. Waste samples will also be collected for analysis. In the future (Area 3 studies), systems including seawater scrubbers will either be sampled upstream of the scrubbing device or require the development of adequate gaseous and scrubber water sampling procedures.

The recognized EPA methods for the collection of particulates in stack emissions through the use of traversing will be used only if the results of the previous tests demonstrate that one-point sampling will not provide a representative or even a worst case collection point.

EPA wishes to determine if the substances detected in the standard MM5 or SASS train samples (collected from inside the stack) are the same as those that actually enter the environment in the cooled off plume from the incinerator. During future tests, EPA will use a new sampling system which collects gas from the stack much like the MM5 and SASS trains, but cools and dilutes the gas before the particulates and organics are collected on the filter and resin. It is anticipated that the cooling of diluted gas before sample collection will more closely imitate the real world environment of the plume from a non-scrubbed stack.

This dilution sampling system has been used by EPA on industrial boilers but must be reconstructed of glass before it can be used in the acid environment of the ocean incineration plumes. This system will collect samples for organics analysis and may provide a better representation of the substances actually entering the environment from the incinerator.

3.1.3.3 Continuous Monitoring

During the entire research burn, several parameters will be continuously measured. The amount of oxygen, carbon monoxide, and carbon dioxide will be determined by continuous, rapid response monitors. The temperature of the incinerator wall at several points will be monitored. The measurement of these parameters is required by LDC regulations. The ratio of CO to CO_2 is defined as combustion efficiency (CE = $(CO_2 - CO)/CO_2 \times 100$). CE is a generally accepted guideline to the proper operation of an incinerator. In addition, a total hydrocarbon (THC) continuous monitor will be required. The use of a THC monitor will note if the organic portion of the stack emissions were to increase during an incineration burn indicating a decrease in optimum incineration operation. The monitoring of the oxygen provides assurance that the required air is present for proper oxidation of the organic compounds.

To date, incinerator experts from EPA and the rest of the hazardous waste technical community both here and in Europe have not found any reliable theoretical or empirical relationships among such performance parameters as destruction efficiency (DE), destruction removal efficiency (DRE), CE, CO_2, O_2, THC, or any mathematical ratio or combination thereof. From a theoretical sense, finding such relationships is a very difficult task due to the complexity of the high temperature flame processes which simultaneously occur within an incinerator. EPA's existing incineration data base is quite large; however, it is composed of performance data from dozens of different hardware designs, which adds yet another variable or dimension to complicate finding any of these relationships. The only possibilities for finding such relationships among DE, CE, etc., might be on an empirical basis, or as derived from extensive parametric (systematically varying all parameters during operation) on individual fixed designs of incinerators in a research laboratory. EPA is currently embarking on such studies on laboratory and pilot scale incinerators; however, the results of these studies are likely to take many years.

Meanwhile, EPA has gained from its broad incineration data base some reliable and useful engineering judgment rules or guidelines; for example, what levels of CO, CO_2, O_2, temperatures, and other design and operating parameters usually result in acceptable DE or DRE levels overall.

3.1.3.4 Chemical Analysis Methods

The stack emission samples will be analyzed for compounds present by methods capable of measuring in the nanogram per sample range. In general, Gas Chromatography/Mass Spectroscopy (GC/MS) will be the analytical finish; however, other techniques will be used as necessary. All stack emission samples will be analyzed for all major compounds identified in the feedstock plus the most abundant compounds that can be detected. This will allow the identification of products of incomplete combustion and/or recombined compounds. Samples will be analyzed for total organohalogen (TOX) using a GC/Hall technique. If any unexpected compounds are found in the emission samples, the waste will be specifically re-analyzed for those compounds to determine if they are uncombusted compounds from the waste.

3.2 Exposure Considerations

3.2.1 Overview

In addition to knowing the identity and quantity of the emissions from ocean incineration, it is necessary to know where the emissions go after leaving the stack and at what concentrations they exist in the environment. This strategy includes the use of plume transport models to estimate where gaseous emissions will go and the use of ambient monitoring to validate the models. It is set up in a tiered approach where less sophisticated exposure estimates are used in worst-case scenarios first and, if necessary, sophisticated exposure estimates (models, etc.) are used later. This approach is designed to be used in a tiered risk assessment as described in section 3.3.4.

3.2.2 Site Selection and Environmental Monitoring

Before any incineration can take place in the ocean, a suitable site must be located which meets the requirements of the Marine Protection, Research, and Sanctuaries Act (MPRSA) and which will be appropriate for model validation studies.

3.2.2.1 Site Selection

Research burns must be conducted at sites believed to be environmentally acceptable, but need not be conducted in a location which has been officially designated by EPA as an ocean incineration site. The MPRSA allows research at non-designated sites, and the low volume of wastes to be incinerated indicates that the evaluation of an acceptable short-term site need not consider high-volume/long-term contamination to the degree needed to fully designate sites for operating permits.

This type of site may be useful for research into detailed plume modeling, environmental effects, and detection and quantification of trace substances in incinerator emissions from a source which is believed to operate efficiently. This type of site may not be appropriate for long-term use. Sites, as described in this document, will require additional evaluation before being considered for long-term use.

Sites used for incineration research must meet the general criteria requirements as defined in the ocean dumping regulations. Sites must be in areas of minimal interference with fishery or shellfishery areas and regions of heavy commercial or recreational activity. Sites must be in areas of low biological activity as exemplified by plankton density and the absence of sensitive biota, and should not have prevailing winds or currents toward sensitive areas or shore. In order to be useful for model validation, the site should be in an area of relatively consistent wind and predictable current velocities, or the models will not be capable of explaining environmental concentrations of the emissions.

In addition to the general criteria, 12 factors should be considered in site approval. These factors are the specific criteria described in EPA's ocean dumping regulations (40 CFR 228) with the addition of a twelfth factor suggesting that the occurrence of endangered and threatened species be considered. The twelve criteria are presented below.

(a) Geographical position, depth of water, bottom topography, and distance from coast or special marine resource areas. The site should not be near shore where the plume could potentially contact land prior to dispersal.

(b) Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases. Sites should not be located near these areas.

(c) Location in relation to beaches, marine sanctuaries, and other amenity areas. Sites should not be located in areas where winds or currents are likely to transport emission products toward these areas.

(d) Types and quantities of wastes proposed to be incinerated, and details of the proposed methods of incineration.

Types and quantities of waste need to be evaluated in order to determine the rates at which incineration can take place at a site without endangering local biota. The incinerator designs, including the use of sea water scrubbers, need to be evaluated in conjunction with the waste type in order to estimate how emissions will enter the environment (i.e., directly into the water as scrubber discharge, or to the atmosphere in hot gases). Because the site will be used for research, the total quantities of waste incinerated will be low.

(e) Feasibility of surveillance and monitoring.

(f) Seasonal circulation patterns, dispersal, horizontal transport, and vertical mixing characteristics of the area, including prevailing water current and wind direction and speed, air temperature, atmospheric stability, frequency of inversions and fog, precipitation amounts, and relative humidity.

These parameters of the site area must be known in order for research to be conducted at a time when air and water circulation patterns will not carry emissions into unsuitable areas, such as beaches, reefs, or fishing areas, and will assist in model validation.

(g) Existence and effects of current and previous discharges from incineration or other disposal activities in the area.

The existence of previous dumping activities at a site would be important in evaluating environmental data from baseline or trend assessment monitoring. The cumulative effect of ocean incineration and other discharges in the site must be considered in evaluating a site.

(h) Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance, and other legitimate uses of the ocean.

(i) The existing water quality and ecology of the site as determined by available data or baseline surveys. Environmental characteristics of the marine ecosystem at the site should be described to identify sensitive organisms which may occur at the site during the test and the background levels of combustion emission related substances that are present at the site.

(j) Potential for the recruitment of nuisance species in the site.

(k) Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.

(l) Occurrence of endangered or threatened species at or near the site. Seasonal migration patterns of endangered species should be described prior to site use. Seasonal migration may lead to specific seasonal use of the site so as not to interfere with endangered species.

3.2.2.2 Environmental Control Study

When a site has been selected and a research burn is about to begin, environmental control sampling should begin at the site. Environmental background data must be collected at the research burn site immediately prior to and during the research burn. This background data collection will be oriented toward determining background levels of organic substances in the area of the site during the research burn for comparison to levels determined during and after the burn. Other background data for sulfur hexafluoride (SF_6) or perfluorinated hydrocarbons (PFH) and HCl will also be collected for use in model validation studies. Indigenous organisms may also be collected and appropriate species selected for future laboratory bioassays. Sampling will begin a day or two before the incineration vessel arrives at the site to ensure EPA that the rest of the control data taken during the burn is in fact not contaminated by the incinerator.

Environmental baseline samples to be collected at the site will include the surface water, air, and neuston. These types of samples will be taken because any substances exiting the incinerator will likely be at their most concentrated levels in these media near the incinerator during the research burn. These baseline concentrations in the near field area are essential if the environment is to be sampled during a burn for detection of elevated levels of emission-related substances. These near field samples will undergo the same chemical analysis as that described for emission samples and will also be analyzed for background levels of HCl (air only) and SF_6 or PFH (air and surface water only).

3.2.2.3 Environmental Sampling During Research Burn

During a research burn, the same types of samples as described for controls will be collected in the plume area and analyzed after the emission samples are analyzed so that the specific substances observed in the emission samples can be searched for in the environmental samples.

HCl and SF_6 or PFH concentrations in the air will be vigorously tested during the burn to locate and describe the plume. SF_6 or PFH will be sought in surface water to determine areas of plume touchdown.

3.2.3 Model Evaluation and Exposure Assessment

Prior to the implementation of a research burn, various atmospheric and water transport models will be evaluated.

The reason for studying air quality plume dispersion models is that they will be used in the future at other sites to predict the location and extent of the incinerator emissions' sea surface impact zone and the amounts of material deposited in this zone based on stack emission rates. This information will also be used to determine where future air samples will be taken during operational burns. The study must include control data, modified overland plume dispersion models to accommodate overwater meteorology (air movements, stability, etc.) and model verification to demonstrate that these predictions are reasonable. The background data collection plan is designed to obtain data which will estimate background levels of organics, SF_6 or PFH tracer, and HCl. These data will be compared to the emission data collected during the research burns and used to estimate the extent and diffusion of the incineration plume. These comparisons will also be used to verify the use of the modified overland plume dispersion models for predicting the dispersion of plumes from incineration at sea.

3.2.3.1 Atmospheric Model Evaluation

Models exist for predicting the movement and impact of air masses, and the EPA has a series of air quality dispersion models referred to as UNAMAP that can be used. However, these models were designed for overland dispersion and not explicitly for overwater air quality modeling. In previous applications over water, poor results have been obtained mainly because the assumptions made in the models were based on wind speed and net radiation levels generally found over land and not generally found over water. Modification of the models and additional measurements at the site during the environmental testing will be used to overcome some of these deficiencies.

Two approaches are proposed for tracking the plume for model verification during the implementation of this strategy. First, the high concentration of HCl (which is produced during the combustion of chlorinated organic substances) released from the burning of PCB will provide an airborne tracer, the HCl. However, this cannot be used to determine the actual interaction of the plume with the sea surface since HCl is neutralized once it contacts seawater. The second approach will be to add a material such as perfluorinated hydrocarbons (PFH) or sulfur hexafluoride (SF_6) that can be tracked in the plume and in the water. Sulfur hexafluoride is one good candidate for use as a tracer, since it has been used as a plume tracer in many studies; analytical techniques, including continuous monitors capable of detecting as little as 10^{-12} parts SF_6 in air, are available. Several studies with SF_6 as the plume tracer have been carried out over the ocean. Tests have also shown that SF_6 is not destroyed by seawater and can be detected in low concentrations in seawater. SF_6 is not generally found in seawater; thus, a very low background and good analytical techniques will permit low detection limits. Tests of the validity of these tracers as surrogates of emissions will be required.

Since the PFH's are organic compounds, they should be the best surrogates for tracking the transport of the emission organics in the air and water. These compounds are also very stable in water and should not be present in the ocean. Detection limits are also very low for PFH's. The use of an organic tracer such as one of the PFH's as a surrogate for tracking the transport of the organic substances in the emissions is the more desirable approach. However, cost or technical problems may make this approach impossible, in which case SF_6 will be used as the organic emissions plume tracer even though it is not organic. Generally, when tracers such as PFH and SF_6 are used, a second material or plume property such as plume visibility is used to help track the plume. In this study, HCl will be used as the supplementary tracer, and, as with PFH and SF_6 very good, highly sensitive detection methods are available for tracking the HCl. Ammonia can also be added to the plume to make it visible.

Several releases of PFH or SF_6 are planned to cover a variety of meteorological conditions. The tracer will be released in the plume just above the stack at a point where the stack gases have cooled below the decomposition temperature of the tracers. Tracking by ships and planes is recommended. If the plume follows the predicted course, a limited use of planes will be needed. If the plume rises, extensive airplane sampling may be needed. Seawater samples and air samples will be taken in the site area during the baseline cruise for background data, and a wide range of samples will be taken during the burn in the areas of plume touchdown. These will include but not be limited to air, sea slicks, and surface water samples.

The needed meteorological measurements will be made from the incinerator ship and along the plume path. The standard wind speed, wind direction, temperature, and relative humidity measurements logged by the incinerator ship and sampling ships can be supplemented with pilot balloon soundings and airplane measurements for wind profiles and boundary-layer conditions.

When the plume has been identified using PFH or SF_6 and HCl, the environmental samples will be collected under the plume to be chemically analyzed for emissions-related substances for use in model verification.

The task of statistically identifying background levels of the potential organic substances in the air, water, and neuston of a pelagic site is quite different from defining SF_6 or PFH background levels. An approach for sampling and statistically describing the background levels of organic substances will be developed. The numbers, kinds, and sizes of the environmental samples will be an important consideration. The approach selected will be used for the samples taken before, during, and after the burns.

The on-site measurements of the tracer, HCl, and the incinerator-emitted organics in the plume and at the surface impact zone will be used to verify predicted values from the modified overland atmospheric dispersion models. Additional modeling and laboratory studies need to be conducted, however, to determine how emissions-related substances are incorporated into the surface microlayer and subsequently transported into the surface water and biota.

3.2.3.2 Aquatic Model Evaluation

Assuming a small level of incomplete combustion plus possible formation of organic compounds during the combustion process, release to the atmosphere of some amount of organic material is possible. The emissions during actual operations may also include small amounts of metals that were present in the original waste material. The most probable point of impact of incineration stack emissions, and scrubber water if applicable, will be the ocean surface and consequently the organisms directly or indirectly associated with this area of the marine ecosystem. Chemical characterization of emission exhaust will determine the types and levels of potential emissions including organics and HCl. The predictive modeling and tracer studies used in the research burn will determine the area and points of plume impact. Models will also be used to predict the levels and composition of emissions that ultimately reach the ocean surface and subsurface waters and associated organisms. Prevailing currents, wave action, and other hydrological disturbances will play a major role in final fate and exposure concentrations. In addition, biodegradation rates of emissions, potential for bioaccumulation, and residence time of HCl in surface microlayers are important components of an exposure assessment in the aquatic environment.

In Area 3 of this strategy, studies are planned to determine if, how much, and for how long emission components reside in the water surface microlayers. Laboratory ecosystems (microcosms) with simulated lipid surface microlayers will be sprayed with appropriate organic compounds similar to expected emissions as determined by previous trial burns. Periodic measurements will be made, using Nucleopore membranes, to determine:

1) the rate of organic compound uptake;

2) residence time in the microlayer; and

3) disruption of microlayer integrity by HCl.

Chemical constituents of the surface films can affect these rates and will be varied to determine their impact. Constituents such as protein, lipid, and carbohydrate content will be varied.

To determine exposure concentrations in marine surface microlayers, the microbiological fate of emissions will be investigated. These studies can be conducted in the laboratory with real microlayer materials and associated microflora or simulated microlayers as described above. Studies should be conducted in sterile and non-sterile systems and every effort made to account for mass balance of substances added to the system(s). Microbes associated with the surface film (i.e., microlayer) will be determined by chemical constituents of the film. Variation of these chemical constituents, as discussed above, will be correlated to changes in the microflora and assess their abilities to degrade the organic emissions.

Field samples (surface microlayers) may be taken during research burn events to determine concentrations of organic and acid emission accumulation and to verify data from laboratory ecosystem studies. Background samples will be taken prior to the burn to subtract levels of pollutants resident in the surface microlayers and associated organisms.

Various sampling techniques are available to retrieve environmental surface microlayers. These include screen techniques, a teflon disk technique, a Nucleopore or Millipore membrane technique, and a rollerdam technique. Each of these techniques have benefits for retrieving certain constituents or components of films. Most are limited in volume, thickness of film, or area which can be retrieved. One or more of these methods would need to be used in a statistically sound design in order to obtain valid information on film components prior to and during the research burn. At the present time, the statistical variability from sample to sample using any of these procedures is unknown and would need to be determined before a meaningful sampling program could be designed.

Because of the intensive decomposer-herbivore (detritivor) food chain in the microlayer, it is highly probably that organic chemicals from stack emissions, if not decomposed in the microlayer (biodegradation/photodecomposition), will be transferred to higher organisms via the food chain (i.e., dinoflagellates, ciliates, and fish). Heavy surface slicks on inland waterways and estuaries have been observed to contain an extensive food chain with small fish feeding directly on the slimy and filamentous organic layer. Therefore, if area 1 and 2 studies show that significant levels of organics are being emitted from the incineration stacks studies should be performed to determine if these substances accumulate in the surface microlayer of the ocean and if so, what is the potential toxicity of these chemicals to representative marine organisms which may live in or feed on the microlayer. These organisms may feed during the night and then migrate to deeper water during the day, thus dispensing the emission constituents. The microlayer might therefore not accumulate emissions at all but serve as a distribution source.

Since surface microlayers contain a diverse community of bacteria, it is highly probable that small quantities of organic chemicals can be biodegraded to microbial biomass or harmless organic or inorganic products. The densities of the surface films, associated bacterial populations, and their catabolic capabilities will vary with the quantity of nutrients available, both organic and inorganic, as well as the type of substrates. For example, highly proteinous films will contain a higher proportion of peptide-utilizing bacteria than a film containing a high concentration of lipids.

Since surface films collect and concentrate hydrophobic chemicals across the ocean surface, these chemicals are exposed to a higher ultraviolet (UV) radiation than if they were dispersed in the water column and adsorbed to particulates. This enhanced UV exposure adds to the probability of photodecomposition of these compounds, particularly for photosensitive chemicals. Photodecomposition may or may not reduce the chemicals to harmless products;or render a normally non-biodegradable chemical more susceptible to microbial attack.

The ultimate fate of any incinerator emissions and therefore their exposure concentration to organisms of the marine ecosystem will be a function of biodegradation, photodecomposition, potential for bioaccumulation, and physical activities such as waves, currents, etc.

The microlayer and its associated organisms may be exposed to both organics and acid emissions from organochlorine combustion. While it is understood that relatively alkaline seawater has the capacity to neutralize significant quantities of acid (HCl), research may be done in Area 3 to determine the fate and potential impact of fairly large quantities of HCl on the important microflora associated with this microlayer. Laboratory studies could be conducted to determine the residence time of the acid precipitation in the surface microlayers. If the acid is rapidly neutralized by the alkaline seawater, no effect on the resident microbial populations would be expected. If, on the other hand, the acid precipitation significantly changes the pH in the surface microlayer more than transiently, coincident changes in microbial species composition and function could result.

Field verifications of predicted acid residence time in the surface water is needed. Surface water samples taken during burns will help to verify laboratory data and assist in monitoring potential depositions whether expected or unexpected.

The transport and exposure considerations addressed in this research strategy will therefore try to describe the transport and fate of any substances emitted from ocean incineration and estimate the levels of these substances that could exist in the environment based upon the results of stack emissions analyses. Best- and worst-case scenarios will be run through the models. If the worst-case scenario shows an extremely low probability of exceeding background ambient levels of emissions-related substances, the decision could be made that additional toxicity-related studies may not be necessary.

3.3 Biological Assessment Consideration

3.3.1 Overview

Information obtained from studies conducted to determine the types and quantities of substances emitted from ocean incinerators and the exposure concentrations of these substances in surface microlayers, subsurface waters, and air above background levels, will help determine if toxicological effects due to incineration stack emissions can be expected. If these substances accumulate in the marine environment and are not biologically degraded or photodecomposed, they may have the potential to cause adverse effects or bioaccumulate through the food chain. Laboratory studies will be conducted to determine the concentration of emissions that will produce significant changes in a suite of biological responses ranging from acute mortality to growth, reproduction, or ecosystem process interruption. If evidence does not exist which indicates that elevated levels of substances will appear in the environment (i.e., worst-case scenario), extensive laboratory studies of biological effects may not be needed. The effects testing proposed in this plan is therefore tiered with the least sophisticated and least complicated tests first, with more sophisticated test following--if necessary. This tiered approach will parallel the exposure-tiered approach and be used in the tiered Risk Assessment described in section 3.3.4.

3.3.2 Direct Biological Effects

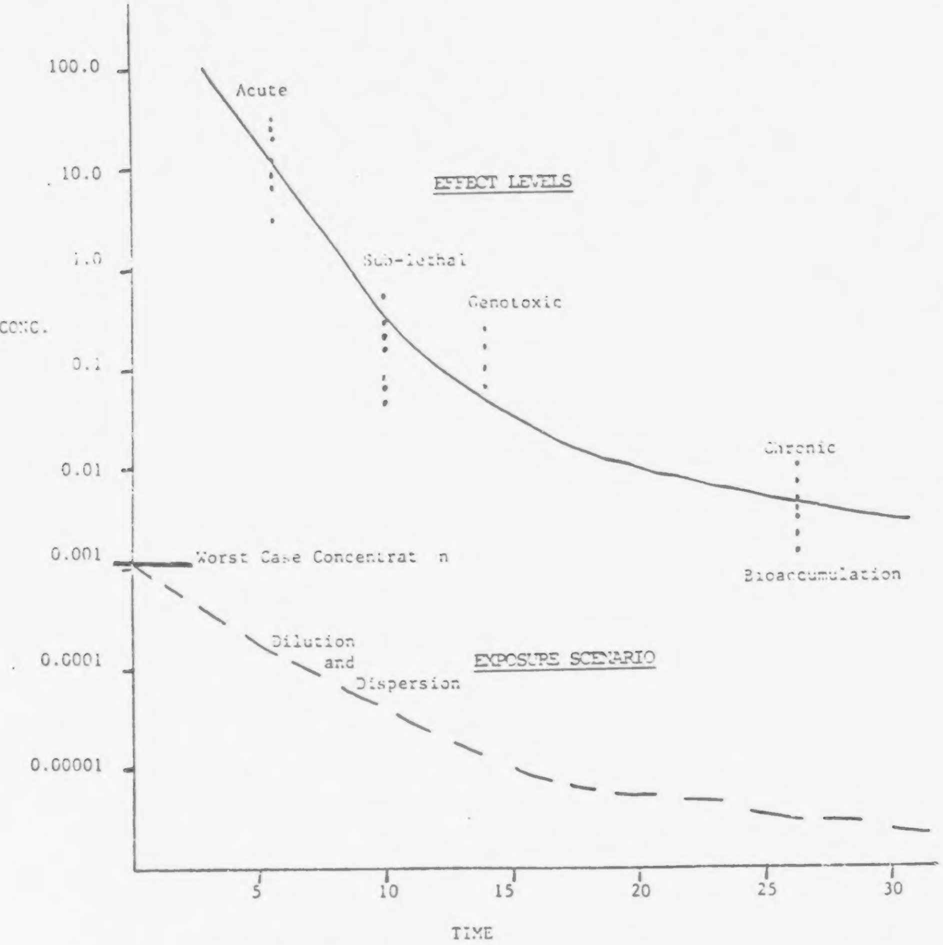
The objective of the aquatic toxicology part of this strategy is to determine from laboratory studies the concentration of emissions that produce significant changes in a suite of biological responses ranging from acute mortality to growth and reproduction. These biological responses to various concentrations of emission substances can then be compared to the concentrations estimated to occur in the environment, and decisions can be made regarding the acceptability of ocean incineration (see hypothetical example in Figure 1).

Before any biological testing can be initiated using emissions from burning hazardous wastes at sea, the testing methods themselves must be developed and proven effective. Preliminary studies will therefore be conducted where an operational, land-based combustion facility will be used as a source of emissions, and various emissions collection methods will be tested. These methods will include passing emission gas through a tank of seawater which will act directly as an adsorbent. This bubble-through method will require water, pH, and temperature adjustment before being used in bioassays on selected organisms.

This testing will also include a determination of the appropriate bioassay procedures, standard test organisms, and end points which should be used in at-sea studies.

After sampling methods and toxicity test procedures are developed, the approach is to collect emission products during an at-sea research burn and to use emissions to generate exposure response curves for the most sensitive life stages of standard test species using intercalibrated test protocols. A test of these procedures may be conducted at a land-based hazardous waste incinerator for toxicity range finding prior to a research burn at sea. Additional test species will subsequently be selected to include representatives of the indigenous neuston population and sensitive life stages of commercially important crustaceans, molluscs, and fishes. The chronic toxicity tests will follow the recommendations of the Water Quality Guidelines Committee (1984) as much as possible, and the specific toxicity test protocols for conducting the test will follow ASTM standard practices whenever applicable.

FIGURE 1



EFFECT CONCENTRATIONS AND WORST CASE EXPOSURE ESTIMATE (HYPOTHETICAL)

Because of the potential limitation of the test material, a hierarchical testing strategy will be employed in first attempts to define the relationship between acute and chronic responses for standard test species and then determine the range of acute toxicities for indigenous species. The mean of the acute: chronic ratios from the standard test species will then be applied to the acute toxicity values of the indigenous species to estimate the chronic values of the most sensitive species.

Specific test species cannot be recommended with certainty at this time. However, the strategy proposed in previous sections will logically suggest the selection of certain species types. For example, in order to optimize the predictive nature of the effects testing, species such as those for which we have standard protocols and extensive comparative toxicological data bases will be given priority. Next, we need to look at indigenous species to address the question of whether the standard species are representative of the sensitivity of the indigenous species. This will allow us to place some confidence limits on predictions made from standard test species. The precise approach to these types of tests will require further investigation.

The types of biological responses that should be measured range from survival to integrative responses such as growth and reproduction. For selected standard test species, methods have been developed for measuring the latter integrative responses from short-exposure durations and should be applied to this problem since the duration of the tests will be strongly influenced by the availability of the emission condensate.

Estimates of the potential for bioaccumulation of emission products will be conducted using predictive methodologies including the application of log-octanol water partition coefficients to those emission products that are identified in the emissions. Direct measures of bioaccumulation will be difficult due to the limited amount of emission product but will be attempted on those chronic studies where calculations indicate that the tissue residues could conceivably reach levels of analytical detection given the exposure concentrations, bioaccumulation factors, and available sample size.

Because of the nature of the original feedstock contaminant composition and the combustion processes, there is the possibility of genetic toxicants being present in the emissions. To test this hypothesis, a hierarchy of genotoxicity tests ranging from the Ames Test for mutagenicity, to tests for genetic damage (Sister Chromatid Exchange), to tissue culture tests designed to address the potential for tumor promotion are included in "Area 3" studies. However, the need to conduct these higher level tests will depend on initial data on the chemical characterization of the emissions and the availability of material.

3.3.3 Effects on the Surface Microlayer

Because surface microlayers can serve as food for higher organisms, the potential exists for food chain bioaccumulation of organic substances accumulated in the microlayer. If laboratory tests are indicated, studies should be conducted to determine the potential for bioaccumulation of these chemicals where appropriate.

EPA already possesses information showing that significant quantities of acid (HCl) will be emitted from combustion of organochlorine waste. If these acid emissions contact the ocean surface too rapidly and are not neutralized fast enough, they could adversely affect the organism structure or functions of the microlayer. Tests should be undertaken to determine the potential impact of acid emissions on surface film organism structure and function.

Since microorganisms accumulate in the surface microlayers (dinoflagellates, ciliates, and bacteria), acid precipitation from plume fallout could affect their life cycles. The potential damage to the ecosystem from such changes is only speculation. Certain microbes, however, can only function within narrow pH ranges, and speciation of certain metal ions necessary for growth and metabolic reaction are regulated by small pH changes.

Endpoints of concern other than death and bioaccumulation can be addressed in a laboratory situation using bioassays to determine potential impacts of incineration acid fallout. These bioassays include: ATP (total viable microorganisms predominantly algae), phospholipid (total bacterial content), and 14C-glucose metabolism (heterotrophic activity levels). Other biochemical characterizations of microbiological and macrobiological communities can be utilized to investigate changes in community structure and function.

Disruption of the community structure may or may not result in changes in the community function when changing the environmental pH. It has been suggested that acid rain deposition on terrestrial ecosystems can change the nitrogen recycling to some extent. Investigations of critical cycles in marine surface films can be addressed. However, initial studies will be needed to determine what function these films play in the current cycling in the open waters. It is believed that these films are vastly important to detrital and fecal degradation since the decomposer populations are 10 - 10,000 times higher in this area than in subsurface water.

3.3.4 Comparative Environmental Risk Assessment

Ecosystem impacts are typically inferred from tests on individual species from which forecasts are made to the population and community levels of biological organization. This can be accomplished by interfacing the source inputs (e.g., pollutant type and loading rate) to the biological effects through measurements of environmental exposure. Pollutant input rates are then used as source terms for transportation and fate models which are used to predict pollutant concentration isopleths on defined spatial and temporal scales. This form of output is directly compatible with biological effects measurements in the laboratory that are typically described as functions of pollutant concentration and exposure duration. The conduct of a risk assessment occurs when the probability of environmental impact is estimated from a comparison of the environmental contaminant exposure with contaminant concentrations producing biological effects.

One of the principal features of a risk assessment strategy is that the effects and exposure components are tiered. The ordering of the tiers implies increasing degrees of complexity, resolution, and predictive confidence. An additional assumption is that there are clearly defined criteria for decisions at each level of the hierarchy which then trigger the need for increased data acquisition at the higher, more complex tiers. A prediction of hazard is made by comparing the predicted environmental exposure concentration of the material (exposure assessment) and the concentration producing biological effects in the laboratory studies (effects assessment) at each tier. When properly synthesized, these data provide a confidence-bounded estimate of the probability (risk) of unacceptably altering the aquatic environment as the result of the disposal of the waste. If either the confidence of the prediction or the probability of risk is unacceptable, then additional levels of testing can be conducted. This strategy places the biological tests in a hierarchy of complexity which reflects a continuum from detection to assessment methods with increasing predictive confidence, and directly relates the contaminant concentrations causing effects to the predicted environmental concentrations determined at the same hierarchical level. This approach permits the development of a series of testable hypotheses that is amenable to both laboratory and field verification.

Questions Submitted for the Record by Senator Stafford

FY 1985 RCRA REPROGRAMMING

Question: It is my understanding that EPA plans to begin implementation of the 1984 Amendments to the Resource Conservation Recovery Act by reprogramming funds from available appropriations. While I am pleased that the agency will begin addressing RCRA concerns now rather than wait for a supplemental appropriation bill, I am concerned about the reductions in other programs.

Could you please describe what efforts EPA will take to minimize the reductions proposed in FY 1985, in particular those for compliance grants?

Answer: Let me assure you that care was taken during the reprogramming for the RCRA program. A review was taken to ensure that minimal problems would arise. The impacts were weighed carefully against the urgent need to immediately begin the enormous job of implementing the 1984 RCRA amendments.

The Agency made special efforts to equitably distribute the reduction to all other programs Agency-wide. While it is true that about half of the reprogrammed resources come from the grants program, many other sources of resources where used to fund the high priority needs of the RCRA program. For instance, a significant portion of the funds to be reprogrammed were from resources not spent in FY 1984. These carryover funds amount to about $4.5 million.

It is important to note that the we have funded the most important new RCRA needs, while still providing funds for most of Congress' additional concerns. The advantage of this approach, that we decided to use, is that it made resources immediately available for use by the RCRA program.

Finally, a major factor contributing to the decision to redirect some of the Agency's grant funds was our analysis which showed approximately 52% of the Agency's continuing grant resources are devoted to compliance related activities in 1985. It is also important to note that we are requesting an additional $19.3 million in 1986 for the Agency's continuing grant programs, primarily for compliance related activities.

RESOURCE CONSERVATION AND RECOVERY ACT

Question: Last year, the Congress enacted, and the President signed, amendments to the Resource Conservation and Recovery Act which established deadlines for a number of actions required under the Act.

In light of the decision not to seek a 1985 RCRA Supplemental, will the Agency meet each of the deadlines in the Act? In each case where the Agency will not meet the deadlines, please describe the level of resources necessary for 1986 through 1990 to meet those deadlines. In each case where the Agency believes the deadlines will be met, please describe the level of funding assumed for 1986 through 1990 and the level of outputs (e.g. permits) necessary to meet those deadlines.

Answer: The resources requested for 1985 and 1986 represent our best estimate at this time of what is needed to meet most of the statutory deadlines imposed by the Hazardous and Solid Waste Act (HSWA). Statutory deadlines will not be met for the activities identified below. The delays in meeting the deadlines largely result from the time it takes to gather necessary information for writing regulations, development and submission of information from the regulated community, the need to resolve the many policy issues that arise, proposing the regulation, providing for a public comment period, issuing the regulation in final form, and the inherent necessity to set priorities for management attention given the large number of actions required simultaneously under the Act.

Activity	Statutory Deadlines	Agency Schedule for Completion: Proposal	Agency Schedule for Completion: Promulgation
Revised underground tank standards	Mar. 8, 1985	Apr. 1, 1985	Mar. 31, 1986
Procurement of paper products containing recovered materials	May 8, 1985	Apr. 1, 1985	Mar. 31, 1986
Procurement Guidelines - Fly Ash, Tires	Nov. 8, 1985	Workplan being developed.	

Activity	Statutory Deadlines	Agency Schedule for Completion	
		Proposal	Promulgation
Hazardous Waste Listings			
- Halogenated Dioxins/ Dibenzofurans	Nov. 8, 1985	Nov. 8, 1986	Nov. 8, 1987
- Refinery Wastes	Feb. 8, 1986	Sept. 8, 1986	Jan. 31, 1988
- Coke by-products	Feb. 8, 1986	Decision whether to list by Jan. 31, 1986	
- Coal Slurry Pipeline	Feb. 8, 1986	Decision whether to list by Jan. 31, 1986	
Hazardous Waste Exports	Nov. 8, 1985	Aug. 8, 1985	May 30, 1986

The outputs we expect to provide within the statutory deadlines are listed by fiscal year in response to the question entitled "Workload Analysis for RCRA Reauthorization". We have just begun to implement the new amendments and do not yet have enough experience to develop useful budgetary estimates for these future years. However, we have assumed that we will have enough resources during 1987-1990 to complete these tasks.

Question: Please provide an estimate of the level of resources used by the Agency to comply with Executive Order 12291 since 1981.

Answer: Listed below is a chart which provides data on resources used to comply with Executive Order 12291 from 1981 to 1984.

	Dollars in Thousands			
	1981	1982	1983	1984
Workyears	6.0	17.5	12.0	9.8
Salaries & Expenses	192.6	715.2	576.5	391.9
Program Contracts	2,983.2	3,641.2	5,487.2	3,743.0

Question: Please provide an estimate of the level of resources that the Agency expended in FY 1985 and expects to expend in FY 1986 to comply with Executive Orders 12291 and 12498.

Answer: We expect to expend the following resources to comply with Executive Order 12291 -- 13 workyears and $4,062,000 (including $3,516,000 for program contracts) in 1985 and 15 workyears and $5,159,500 (including $4,516,000 for program contracts) in 1986.

WATER QUALITY - NPDES PERMITS

Question: In last year's budget hearing Mr. Ruckelshaus stated that by the end of 1985 he hoped to eliminate the backlog of NPDES permits issued by EPA for non-approved States. One quarter of the way through 1985, the Agency has issued only 10% of its target number as permits. It seems unlikely that the backlog will be reduced as projected in 1985. Consequently the 1986 budget may be based on an unrealized reduction in workload. Are proposed 1986 resources adequate to do the job?

Answer: The proposed 1986 resources are adequate to virtually eliminate the backlog of major NPDES permits issued by EPA in non-approved States. Because some permits may expire near the end of any fiscal year and because difficulties may arise in permit development and processing, we expect some expired permits will usually carry over from one fiscal year to the next. While that is recorded as a backlog, we expect the number of such permits to be small by the end of the 1986. The large backlog that accumulated over the past few years will be eliminated, and we will be able to prevent a new major permit backlog from developing with the permitting resource levels in the proposed 1986 budget.

The first quarter 1985 published permit issuance results did not reflect about 34 major industrial permits that were issued effective in the first quarter. With those, the total number of major municipal and industrial permits exceeds the total commitment expected for the quarter (municipals fell short but industrials were significantly higher than the commitment). First quarter commitments are, however, typically lower, with permit issuance rates accelerating throughout the year. So we do expect EPA to meet its 1985 commitments. The EPA backlog at the beginning of 1986 is expected to be less than 200 municipal and industrial permits. Most of these, particularly the industrial permits, are water quality-based permits for which EPA is awaiting State wasteload allocation determinations. Once the wasteload allocation process is completed by the States, EPA will issue the permits with water quality-based limitations. This type of re-issuance process requires a relatively small investment of permitting resources and we foresee that 1986 resource levels will be adequate.

Question: There were no resources budgeted for reissuance of minor NPDES permits for 1985. Does this year's budget include funds for eliminating the backlog of minor permits?

Answer: There are funds in the budget for issuing priority minor permits. We expect, however, that significant reductions in the minor backlog can be achieved over the next few years by maintaining current funding levels.

Question: What is the size of the backlog?

Answer: The following is a summary of the status of minor permits:

	Total Minors	Expired or Expiring in FY '86
Non-approved States	8,320	5,560
Approved NPDES States	47,840	28,970

Question: Do you have an estimate of the volume discharged by these facilities?

Answer: At this time, we do not have an estimate of volume of flow discharged by minor facilities. However, EPA is planning an assessment of this factor. The data will support the development of a minor permit issuance strategy.

CLEAN AIR ACT

Question: EPA transferred $11.5 million appropriated in FY 1985 for improving environmental compliance in the States to its program to develop regulations under RCRA. Over $4 million of this amount was already committed to assisting States in:

a) developing anti-tampering and fuel switching programs;

b) adopting asbestos demolition programs;

c) controlling acrylonitrile; and,

d) performing increased monitoring.

Who, if anyone, will pick up these responsibilities?

Answer: The FY 1985 appropriation for EPA included $16.5 million in State grants to be used for environmental compliance activities. These funds were not earmarked for any particular program or environmental problem.

EPA evaluated a number of alternatives for using the $16.5 million, including using $4.4 million for the activities mentioned in the question. The passage of the 1984 amendments to the Resource Conservation and Recovery Act placed a number of new requirements on the Agency. Faced with these new and pressing priorities, the Agency targeted the $16.5 million, as well as other funds, to implement the new requirements.

The States will have to pick up these responsibilities as appropriate out of existing grant funds.

Question: The FY 1986 budget for the air program represents a decrease of over $4 million from the amount of funds that Congress appropriated to that program in FY 1985. Considering inflation, this amounts to about a 5% decrease in the air budget.

How will the Agency and the States be able to maintain their existing programs and, at the same time, implement non-discretionary, court-imposed requrirements, such as stack height regulations.

Answer: The decrease in the air budget is primarily a result of government-wide reductions in pay and administrative services. There is also a decrease in the request for Abatement, Control and Compliance funds as a result of the completion of development work on New Source Performance Standards for a majority of source categories on the Agency's priority list. The budget request does include an increase in State grants of $4.3 million. Part of this increase reflects the additional resources necessary to meet nondiscretionary requirements.

Question: Recent EPA studies suggest that the risks associated with air toxics and indoor air pollution far exceed those associated with Superfund, RCRA, groundwater and other environmental media. Yet, the proposed budget for air toxics and indoor air pollution are well below those other programs. How effective is our nation's emissions inventory on air toxics? What is EPA doing to assist State efforts to improve these inventories?

Answer: The quality and comprehensiveness of air toxics emissions inventories vary greatly from pollutant to pollutant. Detailed emissions data are available to EPA for only a few pollutants. For example, relatively good emissions data are available for those substances which the Agency has either listed or is in the process of considering for listing as hazardous air pollutants under section 112 of the Clean Air Act. In several cases, source specific emissions data have been collected for these pollutants using section 114 authority.

More limited data are typically available for other pollutants. A recent assessment of available toxics emissions inventories characterized much of the data as being often incomplete, inconsistent and of questionable value. Further, unlike the criteria pollutant program under section 110, there is no requirement for States to collect or submit to EPA emissions data which could be used to compile a national toxics emissions inventory. To date, only a dozen or so States, and a similar number of local agencies, have compiled air toxics emissions inventories.

Efforts are underway to provide guidance and assistance to the States. Thus far, the Agency has published seven reports, each dealing with a particular potentially toxic air pollutant, that provide guidance on how to locate and estimate emissions from sources emitting the pollutant. Seven more reports are currently under development and will be released in 1985-86. Some of the data in these reports are based on the detailed source data collected under the section 112 program. We anticipate that the dioxin emission data collected under the National Dioxin Study for combustion sources will be used to develop an emission factor report for that pollutant. In addition, an Air Toxics Clearinghouse has been established by EPA, at the request of State and local agencies, to provide a focal point to share air toxic related information, including source and emission data.

Within the FY 1985 grant funding provided to State control agencies, approximately $3 million is associated with development and implementation of State air toxics programs. About half of the funding will be allocated to emission inventory development. A recent survey indicates that of the three dozen or so States that do not currently have an air toxics emissions inventory, about half of them plan to compile one in the coming year.

In summary, the quality of toxics emissions inventory data varies from agency to agency and pollutant to pollutant. Efforts have been initiated by EPA to provide guidance and assistance to States, but more needs to be done. The Agency is currently reassessing its air toxics control strategy. Any revised strategy will likely define the scope and costs of emissions data collection programs that would be needed at each level of government to implement the strategy.

Question: When will EPA have in place a comprehensive regulatory strategy to address these pollutants, and in the meantime what is the Agency doing to assist States in developing air toxics programs?

Answer: Many activities to reduce emissions of air toxics are being implemented under Superfund, RCRA, TSCA and other legislative authorities, as well as under the Clean Air Act (e.g., control of volatile organics from hazardous waste dumps; regulations for resource recovery facilities; limitations on burning toxic waste in boilers; regulations for hazardous waste treatment, storage and disposal facilities, etc.). We have been working on a more comprehensive air toxics strategy under the Clean Air Act for some time now. The first phase of this effort was to try to more completely understand the air toxics problem. In September 1984 EPA issued a draft report, "The Magnitude and Nature of the Air Toxics Problem in the U.S.," for public and peer review. We have been holding an extensive series of meetings with State and local agencies, environmental groups, industry, and Congressional staff to discuss the implications of this report and ways of making the air toxics program more effective and efficient. Several of the ideas and approaches that have emerged from these discussions are being phased into our ongoing program. One example is the acrylonitrile (AN) pilot project, which involves State and local evaluation, and control if necessary. Our evaluation of AN indicates that there are some poorly controlled sources which cause high individual risks, but AN does not appear to be a problem of national concern. By the end of April, we hope to begin discussing widely other changes to the national air toxics program. At this point, it is unclear whether we will need to request legislative changes in order to implement revisions to the regulatory program.

EPA has a number of activities underway to assist the States in developing and implementing air toxics programs. About $3 million of the section 105 State air grants will be used for air toxics activities in FY 1985. This will probably increase to almost $5 million in FY 1986. Staff in our Regional Offices will provide assistance to States and local agencies for air toxics program development and monitoring. They will also support delegation and enforcement of National Emissions Standards for Hazardous Air Pollutants (NESHAPs). Together the Regional resources supporting State air toxics programs total 30 work-years in FY 1985, and will increase to about 40 in FY 1986.

We have also provided technical assistance, guidance, and contract resources to the States for implementing the AN pilot project. We are providing technical guidance documents on air toxics emission factors and air quality monitoring. Finally, we are operating an Air Toxics Information Clearinghouse, which provides information and access to documents and activities in EPA, other federal agencies, and other State and local agencies on air toxics.

Question: Under the Clean Air Act, all States are expected to attain the National Air Ambient Air Quality Standards by December 31, 1987. Yet, I understand that many areas throughout the country will be unable to attain the ozone standard by this date. How many are projected to be out of attainment by this date?

Answer: As many as 10-12 major urbanized areas will probably remain nonattainment beyond 1987. Another 10 urbanized areas may fall in this category.

Question: How is EPA helping these States attain the standards?

Answer: For each of the National Ambient Air Quality Standards, EPA has provided considerable guidance to the States on how to evaluate the extent of their nonattainment problem (monitoring and modeling guidance), how to determine the magnitude of the emissions causing the problem (emission inventory guidance), how to determine the degree of control needed to attain the standards (modeling and control strategy development guidance), and how to determine which controls would be effective in bringing about actual attainment (control technology guidance).

In addition to providing this guidance and other direct technical assistance, EPA manages the section 105 State and local air grants process to allocate resources to areas that have the most significant problems and to agencies that are most able to deal with the problems.

EPA is focusing increased attention on the continuing ozone nonattainment problem. A task force of upper-level managers from EPA headquarters and Regional Offices has been established. The task force will review all relevant facts and information and recommend to the Administrator policy options for dealing with both long-term and short-term ozone issues and problems. This group will address such issues as the role of extraordinary State and local control measures and the shortfalls in required emissions reductions in many areas.

Question: When will EPA make a decision on whether to require Stage 2 Vapor Recovery or Onboard Controls in automobiles? If EPA chooses the latter strategy, what effect will this have on assisting the States to attain the ozone standard?

Answer: The Administrator will be thoroughly briefed on the control of gasoline vapors this summer. A decision on Stage II or on-board controls will be made during the latter part of the year. If EPA chooses on-board control, the technology will be a valuable, longer-term measure for those areas not able to attain by 1987.

AIR ENFORCEMENT

Question: I understand that the Agency plans to conduct only 1725 compliance inspections under the air enforcement program in FY 1986. In FY 1984, 2,474 were actually conducted. Why are projected inspections so much lower and how will the reduced number of inspections affect compliance?

Answer: To better address violations of recently-promulgated regulations to control volatile organic compounds (VOCs), EPA initiated in FY 1984 a major effort to develop an up-to-date inventory of VOC sources. The effort included two parts. First, identify all major VOC stationary sources and ensure they are recorded in the national Compliance Data System. Second, update the compliance status of the newly-identified VOC sources by conducting inspections. This effort greatly increased the number of inspections conducted by EPA during FY 1984. The effort to improve the VOC inventory will continue into FY 1985 and FY 1986; however, as the inspection program for VOC sources is completed the number of required inspections will decrease as proposed in 1986. At the same time, EPA is working with State and local control agencies to better target inspections and improve the rate of compliance. Overall, the Agency expects that the planned level of inspections are sufficient to continue improvement in compliance levels.

RESEARCH: OVERALL FUNDING

Question: Overall funding for the research budget increased $19.4 million from 1985. However increases in acid rain, toxic substances, and hazardous waste research are offset by a 30% reduction in exploratory research grants and a reduction in the number of university-based centers of excellence. Could you provide us with detailed information on the projects which will be discontinued as a result of the cut?

Answer: In FY 1985, a total of 98 new grants in environmental health, biology, engineering and physical/chemical measurements of air and water were awarded. In FY 1986 the grants program will support approximately 59 new grants, a reduction which reflects our desire to focus research resources on areas of highest relevance to the Agency's regulatory programs. The specific subject matter of future grants cannot be predicted at this time.

Question: Also indicate which of the centers will not be funded.

Answer: At present we do not know which of the university centers, if any, would not be funded. Through July of this year we will be conducting peer reviews of all but one of the centers' past performance and their proposed future work. Should a center be considered unsatisfactory through this review process, we would then start phasing out EPA support for that center. After receiving the peer review reports, all those centers considered satisfactory will go through an additional review by the Agency to determine whether continued support of a given center is justified in view of EPA's current regulatory, enforcement and research priorities. We currently plan to reduce the total centers program to $3.7 million in FY 1986, down from $4.5 million in FY 1985. The Agency has not yet determined whether the reduction will be implemented by reducing the amount of EPA support for each center, or by total withdrawal of funds from one or more centers.

ACID RAIN RESEARCH

Question: The budget proposes an acid rain research program of $60.5 million. The budget indicates that FY 1986 resources will focus on expanding research on forest and aquatic effects and enhanced monitoring of dry deposition.

Does the budget also include research for crop damage or address the health effects of acid deposition?

Answer: The EPA acid rain research program should be considered in the context of the larger interagency National Acid Precipitation Assessment Program (NAPAP) budget of $85 million. The EPA budget does not contain research for crop damage but the Department of Agriculture budget (also under NAPAP) does. EPA is currently assessing the feasibility of using its crop exposure facilities to study forest seedling response in FY 1986 as part of the forest effects program.

The EPA acid rain research program will address the health effects of acid deposition. The possibility of acid deposition effects on drinking water supplies will be investigated in Massachusetts and Ohio. In addition, a small-scale research project will be initiated in 1985 on the health effects of "acid fog" in the Los Angeles area.

ACID RAIN RESEARCH LIMB

Question: The prospects for acid rain legislation could be considerably advanced by advances in control technology. However, I note that the budget proposes a 60% decrease in funds for research on the Limestone Injection Multistage Burner (LIMB). Are you convinced that the research on wall-fired boilers has sufficient transferability to justify the reduction?

Answer: Over the years, the focus of EPA's program has been targeted toward providing the basis for private sector commercialization of the LIMB technology. This technology is particularly attractive to the utility coal combustion industry if acid rain legislation mandates emission limitations for acid rain precursors. It is attractive because LIMB can be retrofitted to large and small coal-fired boilers, is potentially lower in cost than conventional technologies, and can achieve relatively effective control of the major acid rain precursors.

EPA's LIMB program has attempted to accelerate the commercialization of this technology, and increase its acceptance by industry, through a jointly funded field demonstration of LIMB. We feel that we will have completed our role in this commercialization effort with the completion of the wall-fired demonstration.

RADIATION RESEARCH - NON-IONIZING RADIATION

Question: The FY 1986 budget request for radiation research and development is only 1.7 percent of the 1985 funding level.

What effect will this reduced level of research support have on EPA's ability to meet its regulatory responsibilities and on EPA's ability to identify emerging radiation problems and their potential impact on human health?

Answer: The reduced level of research support for the radiation medium is actually 10.0 percent of the 1985 funding level. This represents a termination of our research on the health effects of non-ionizing radiation and a continuation of our offsite monitoring and quality assurance program for ionizing radiation.

This reduction will have minimal impact on the Agency's ability to meet its regulatory responsibilities. Those responsibilities are to provide guidance to other Federal agencies on matters involving radiation. The purpose of the non-ionizing radiation health research program is to provide scientifically credible data on health effects of exposure to non-ionizing radiation to support that guidance. With completion in 1984 of the report on the biological effects of radio frequency radiation, the Agency's Science Advisory Board concluded that the report provided a scientifically defensible basis for development of guidance. The Agency believes that sufficient information is thus available for the development of such guidance, and the program can therefore be eliminated. The Agency's offsite monitoring program is performed under a reimbursable agreement between EPA and the Department of Energy, and the radiochemical quality assurance program will be continued.

With completion of the biological effects document, sufficient information has been compiled on the health effects of non-ionizing radiation to complement the existing body of information on health effects of ionizing radiation. Based upon these data bases, EPA should be able to continue to identify emerging radiation problems and their potential impacts on human health.

Question: What was EPA's request to OMB for funding this activity?

Answer: EPA requested a total of $2,000,000 supported by 83.0 total workyears. Included in this total were $1,279,800 for Salaries and Expenses and $720,200 for Research and Development.

RADIATION RESEARCH - NON-IONIZING RADIATION

Question: What will be the impact of zeroing out research on the health effects of non-ionizing radiation?

Answer: The impact will be minimal. EPA scientists and staff who have been involved in the program are expected to remain in EPA and direct their efforts to other parts of the Agency's health research program. The health disciplines in which these persons have been working are comparable to those in which they will be working. The major difference in their future studies will be the environmental agent of exposure.

Question: Will there be adequate data for future revisions of Federal radiation guidance?

Answer: Yes, the Agency believes that there is sufficient information in the biological effects document to provide EPA with data for decisions on development of guidance.

RADIATION ABATEMENT, CONTROL, AND COMPLIANCE

Question: What will be the impact on regulation development of the proposed 11 percent reduction in abatement, control, and compliance (Radiation Criteria, Standards, and Guidance) for FY 1986?

Answer: The proposed reduction in Abatement, Control, and Compliance for FY 1986 mostly offsets reprogramming made to this account in FY 1985. The net decrease of 3.2% from the enacted FY 1985 amount will result in a slight decrease in the amount of technical support available for development of regulations for radioactive waste disposal. This decrease should have only a marginal impact on the schedules for regulation development.

WATER QUALITY

Question: The State of Colorado is currently being sued for inadequate implementation of its EPA approved NPDES program.

Have any other States either formally or informally indicated they may request EPA to resume operation of delegated programs for 1986?

Answer: EPA has some concerns with the legal authority and program implementation of the Colorado NPDES program. We are working with the State to resolve these concerns through legislative and regulatory revisions. Currently EPA is making progress towards resolution, although the outcome is not clear. The State has indicated that they may return program administration if these efforts are unsuccessful. Although a notice of intent to sue has been filed by the Natural Resources Defense Council, the State has not actually been challenged.

To date, no other States have indicated they may request EPA to resume operation of an approved program in 1986. We have identified deficiencies in the program implementation, legal authorities or enforcement aspects of a number of programs. The Agency plans to work closely with States to assist program administration and to correct these deficiencies. If these efforts are unsuccessful, it is possible that a State may return program administration or EPA may withdraw a program. The Agency has no current plans to withdraw any State programs. However, environmental groups have challenged several programs:

Virginia - The Environmental Defense Fund petitioned the Administrator to withdraw the Virginia program for inadequate legal authorities and poor permit and enforcement program performance. EPA requested the State to respond to EDF's allegations. Once the Agency's investigation of the allegations is complete, EPA will either grant the petition and hold a hearing on whether to withdraw the program or deny the petition.

Michigan - The National Wildlife Federation challenged EPA's approval of the Michigan pretreatment program. EPA acknowledged procedural error to the Court and agreed to reconsider the program approval. The State has resubmitted a complete pretreatment program that appears to address all concerns.

Question: What is EPA doing to oversee and improve State program operations?

Answer: Because a number of problems have recently been identified with some State permit programs and because of the large backlog of State issued permits, EPA believes it is important to expand our State oversight and support activities.

EPA has developed a three part initiative for State program oversight to help identify and resolve State program problems. Central to this approach was the issuance on July 6, 1984 of Guidance on Oversight of NPDES programs which established criteria for evaluating and overseeing State programs.

The first component of the oversight is review of State-issued permits. The Agency has a responsibility under Section 402(d) of the CWA to review State permits. EPA has begun to work with approved States to eliminate large permit backlogs. Simultaneously, the Agency will focus increased attention on State permit review to ensure the quality of State-issued permits.

The second component of EPA's oversight is review of enforcement activity. EPA is addressing enforcement through the use of State/EPA enforcement agreements that delineate the State's responsibilities. Those contain State commitments to initiate timely and effective enforcement actions.

The third component of EPA's oversight is re-evaluation of approved State programs. EPA has initiated a policy calling for the comprehensive review of State program legal authorities. Many NPDES States were approved in the mid 1970's and EPA has not reviewed their legal authorities since initial approval, despite the various revisions to the CWA and NPDES regulations. Current EPA policy calls for each Region to review the legal authorities of a least one approved State during 1985. To assist State and EPA in evaluating these programs, EPA is issuing State program guidance that delineates State program requirements.

In addition to these three new areas of emphasis, EPA regional offices are increasing their ongoing oversight and accountability activities in connection with management of State program grants. This generally involves establishing specific quarterly output commitments and following up on any problems as they arise.

In addition to this increased management and accountability emphasis, there are other factors that will help the States realize the 1985 targets and the 1986 projections. EPA has completed issuance of most of the BAT effluent guidelines regulations for the primary industrial categories. These guidelines are intended to make reissuance of the most complex permits easier and faster. EPA has provided a wide variety of technical assistance activities to train permit writers in States. Technical assistance activities include seminars and intensive workshops for permit writers, guidance documents to explain new effluent guidelines regulations, and easy-to-use computer systems to make calculations more efficient. EPA also provides direct permit writing assistance to many States. This direct assistance focuses on the more complex permits that require best professional judgement (BPJ) determinations or site visits and evaluations. This allows the States to concentrate on the permits they are most familiar with, increasing efficiency further.

Question: What contingency plans has EPA developed for cases where it assumes program responsibility?

Answer: At this time, EPA does not expect any States to return program administration to the Agency. However, if necessary, EPA will reassume a State program and operate as we currently administer the NPDES program in States and territories where EPA retains permit issuance responsibility. The Agency will make this program transfer as smoothly as possible, and will adjust resources if necessary to effectively administer the program. Given the seriousness of the Colorado situation, EPA has tentatively allocated additional resources to Region VIII (in which Colorado is located) in 1986 to cover the contingency of EPA program assumption. If another State program elects to return the program, or if it appears that EPA may withdraw a State program after a hearing, the Agency will make other adjustments to reflect the changed responsibilities.

Question: What actions does EPA plan for 1986 in the area of nonpoint source control? How many FTEs and dollars will be devoted to nonpoint source control in 1986 compared to 1985?

Answer: The Federal-State-Local Nonpoint Source (NPS) Task Force formed by EPA in 1984 made policy recommendations in December 1984. The Task Force concluded that flexible, site-specific and source-specific decision making is the key to effective management of nonpoint source pollution, which is best done at the State and local levels. The Task Force recommended that the States, in cooperation with local government and the private sector, should take the lead in implementing NPS programs.

The Agency is in agreement with the Task Force's recommendation and sees EPA's role as one of State oversight, coordination with other Federal agencies and limited technical assistance. We intend to implement these recommendations within our existing programs and resources. EPA has allocated no specific workyears to nonpoint source implementation, but in both 1985 and 1986 EPA will use existing resources (up to 8 workyears) within the water quality management program to carry out EPA activities. In addition EPA is supporting various NPS initiatives in the Chesapeake Bay and Great Lakes programs which we trust will serve as national prototypes.

Question: For the 1986 pretreatment enforcement program, the Environmental Protection Agency (EPA) projects a 25 percent decrease from 1985 in the number of Administrative Orders (AOs) and no change in the number of referrals to the Department of Justice. What was the rate of compliance with administrative orders for 1985?

Answer: During 1985, EPA is emphasizing the enforcement of requirements for Publicly-Owned Treatment Works (POTWs) to submit approvable local pretreatment programs and requirements for certain industrial users of POTWs to comply with categorical standards. The compliance deadline for implementing local programs was July 1, 1983. In September, 1983, EPA directed Regions to issue AOs with schedules for submitting the local pretreatment programs within nine months. AOs were also issued to some industrial users who failed to meet the compliance deadlines for categorical standards. EPA has issued 316 AOs to POTWs through December, 1984, and 70 percent have met or are currently meeting the schedule for compliance. By the end of 1985, most POTWs will either have met the requirements or be on enforceable compliance schedules. Therefore, in preparing our 1986 budget request, we projected a lower level of need for issuance of pretreatment AOs to POTWs. However, EPA must still enforce the existing compliance schedules. POTWs which have not submitted complete and approvable local pretreatment programs by the end of 1985 will probably require judicial enforcement action and these actions were included in our projections for 1986.

EPA projections for administrative orders and referrals to the Department of Justice assumed that ninety percent of the unapproved POTWs would comply with the schedules in administrative orders. Actual rates of compliance with AOs for 1985 will not be available until the end of November, 1985.

Question: What rate of compliance was used for your projections of 1986 administrative orders and referrals?

Answer: In 1986, most of the administrative orders will be issued to industrial users and referrals will focus on the remaining unapproved POTWs, industrial users who have failed to meet AO schedules to comply with categorical standards, and the failure of approved POTWs to implement local programs. EPA again used a 90 percent compliance rate in making budget projections.

Question: Will pretreatment enforcement funds be adequate if a lower compliance rate is achieved?

Answer: EPA has already found a lower level of POTW compliance with local program requirements than projected in the budget (about 70 percent versus 90 percent). As a result, EPA in cooperation with the Department of Justice has developed a Pretreatment Enforcement Initiative designed to focus attention on this problem and to provide incentive for all unapproved POTWs to submit approvable local programs. EPA believes that this enforcement initiative will increase the level of POTW compliance with pretreatment requirements by demonstrating to the POTWs that the Agency is committed to obtaining all approvable programs by the end of 1985.

Finally, with respect to the available level of pretreatment enforcement funding, the proposed 1986 budget represents an adequate level of funding necessary to begin implementation of a pretreatment compliance/enforcement program. If a lower than projected compliance rate continues, the Agency may consider adjustments in funding levels.

Question: The 1985 budget request projected an increase in State National Pollutant Discharge Elimination System (NPDES) permit issuance and a reduction in the permit backlog. Were these projections realized, and can this year's (increased) projections be similarly justified by factors such as increased State staff efficiency?

Answer: The 1985 budget projected that NPDES States would issue 1800 major permits, and the States committed to issue this amount this fiscal year. In the first quarter of 1985, States issued approximately 265 major permits. They are planning to issue 1535 permits, based on the commitment above.

The table below shows the status of the permit backlog, as of 2/4/85.

Major permits that have expired or will expire during FY85 (that have not yet been reissued)	Major permits that expire during FY86	Major permits that expire after FY86
2,059	585	2,673

If the States achieve the commitment of 1800 major permits, the backlog at the end of 1985 will be 524 major permits. This remaining backlog plus the additional permits expiring in 1986 amount to a 1986 workload of just over 1100 permits. The 1986 budget projects that these 1100 major permits will be issued by the States in 1986. Note that the 1986 projection and commitment is lower than 1985. However, States will also have a substantial workload related to issuing minor permits and modifying permits due to revised definitions of secondary treatment, requirements for implementing approved pretreatment programs, and revisions or additions to permit limitations reflecting biomonitoring results or water quality standards revisions.

We have several reasons to believe that this lower 1986 commitment can be met. The Agency has increased the emphasis on reduction of the backlog in the Operating Guidance to the Regions and States. This guidance lays out the most important national program objectives that States must take into account in developing work programs and allocating resources. EPA's Regional Offices also use the guidance and the priorities it contains in their negotiations of commitments from the States.

Question: Section 106 grants require specific level-of-effort (LOE) non-Federal funding. A recent series of Inspector General reports found that several states were not meeting their LOE requirements, and that methods of computing LOE vary widely and result in unreliable numbers. What steps has EPA taken to resolve the problems identified by the IG?

Answer: The Office of Water has issued a policy memorandum to the Regional Offices regarding recovery of funds in cases of failure to meet LOE requirements. The memorandum provides guidance on how to determine whether or not States have met the 106 LOE provision and, in cases where States have not done so, it provides guidance on how to get States on schedule to eliminate their deficits. The Inspector General has accepted the plan of action outlined in the memorandum as a satisfactory way of responding to the recommendations on recovery of funds in the Regional audit reports.

In addition to this guidance, EPA is taking further steps to strengthen the management of these grants. Headquarters is preparing a policy governing Regional Office negotiation and oversight of grant agreements, and we are scheduling workshops for project officers from our Regional Offices to review current grant management problems and methods of resolving them. These measures and continuing policy level emphasis on effective grants management will result in necessary improvements in the 106 grant program.

Question: For 1985, EPA essentially terminated Federal involvement in air and water training, based on the assumption that states would assume this responsibility. What evidence do you have that states have done so, and what evidence do you have that adequate training is being provided?

Answer: In a February 25, 1985, "Report to Congress on Training for Operators of Publicly Owned Wastewater Treatment Plants", we described the current status of each State's operator training programs, needs for future Federal, State, local and private sector actions to improve training; and trends in development of more effective and self-sufficient State programs. The Report also describes State training program accomplishments using prior year Clean Water Act section 104(g)(1) grant funds. The Report notes significant progress in a number of States in developing effective, self-sufficient programs and in returning about 500 small communities to compliance through onsite training and technical assistance. Recognizing this progress and the availability of prior year funds in States, the Agency believes that the proposed 1985 funding level is appropriate.

With respect to academic training grants, the Agency continues to believe that there are a very substantial number of students entering undergraduate and graduate environmental programs in universities without financial assistance and a very high demand for graduates of these programs in both the private and public sectors. In addition, the vast majority of recipients of stipends under the academic grants program have been current State employees participating in State graduate training programs with other financial assistance and job guarantees available to them. For this reason, we are satisfied that sufficient training is being provided and that sufficient interest and opportunities exist for people to enter environmental fields without Federal support. Finally, the Agency's Office of Policy, Planning, and Evaluation is currently conducting a study of existing Agency air pollution control training and alternative ways to meet federal, state, and local needs.

Question: The Agency is now several years beyond its statutory deadline for issuing sewage sludge regulations under the Clean Water Act.

What resources are you presently devoting to this effort? Can you personally assure the Commitee that those regulations will be issued in the near future? By what date?

Answer: The regulatory efforts initiated at the recommendations of the Sludge Task Force in late 1983 are well underway and will produce proposed Section 405 regulations in June 1986. Work is centered in our Criteria and Standards Division of the Office of Water, where seven workyears and $1 million in contract funds are dedicated to this effort. In addition two workyears in our Health Effects Research Laboratory in Cincinnati will aid this effort.

GRACE COMMISSION RECOMMENDATIONS

Question: Last year Mr. Ruckelshaus testified that as a result of implementing several Grace Commission recommendations, he anticipated Agency-wide cost avoidances of $49.6 million and savings of $5.1 million over a three year period. Have these projections been modified, and are they reflected in this year's Administration budget request?

Answer: The level of savings and cost avoidances projected from improvements identified in the EPA volume of the Grace Commission recommendation has not been modified. These projections were included in the FY 1985 President's Budget Submission and are reflected again in the Administration's FY 1986 budget request. The largest amount of savings will be accounted for in the ADP and Procurement areas.

SUPERFUND

Question: I understand that the Administration is planning to achieve the $1.1 billion annual program, in part by assuming increased private sector clean-up and additional recoveries.

The budget projects receipts from recoveries at $29 million in FY 1985 and $33 million in FY 1986. However, I understand that recoveries to date in FY 1985 are only $1 million. How much of the $1.1 billion program do you expect to achieve by recoveries and private clean-ups on an annual basis?

Answer: There are two ways in which a responsible party can pay for the clean-up of a hazardous waste spill or site. The first way is when the responsible party agrees to be responsible for the clean-up. We refer to this as privately-financed response. The second way, which we use only when the responsible party is unwilling or unable to undertake privately-financed response, is when the Federal government takes responsibility for the clean-up and then, through negotiation or litigation, is reimbursed for response costs by the responsible party. We refer to this as Fund-financed response with cost recovery.

We currently project that privately-financed response will occur at 56 percent of the sites on the NPL. However, even though privately-financed response is a significant portion of the overall response effort, we do not include the estimated value of this response in our revenue projections. Thus, none of this privately-financed response is included in the $1.1 billion number. This is for two reasons. First, the funding for privately-financed response is not part of the Hazardous Substance Response Trust Fund or other governmental monies. Second, the terms of an agreement for privately-financed response are based on a level of environmental benefits to be achieved rather than an amount of money to be spent. While we do estimate the value of specific privately-financed responses, we do not try to ensure that any particular amount of money is spent. As a general estimate, we believe that the cumulative value of privately-financed response through 1990 will be about $2 billion.

The Administration's program for Fund-financed response activities is based on revenues obtained from taxes, interest, cost recoveries, and civil penalties. It is difficult to project cost recoveries because they are highly influenced by responsible party willingness to undertake privately-financed response, workload at the Department of Justice, court scheduling, and litigation problems. Notwithstanding this difficulty, we are currently estimating that cost recoveries will account for an average of about $100 million annually of the projected $1.1 billion program.

Specific annual projections for 1986 through 1990 are $32 million, $55 million, $85 million, $115 million, and $190 million.

During the first four months of 1985, we have settled for $4.1 million in cost recoveries. While this and prior experience might not appear to support our outyear estimates, it must be remembered that most cost recoveries to date have been for removal response. As more remedial responses reach completion, the value of cost recoveries can be expected to increase. For example, the average removal response cost is $300 thousand; the average remedial response cost is about $8.1 million.

Question: Will EPA specify the level of clean-up for private clean-ups, and how many of the projected clean-ups are on the NPL list?

Answer: All agreements for privately-financed response specify the level of clean-up by requiring the responsible party to meet all of the established criteria of the National Contingency Plan.

All sites where privately-financed full remedial response is now scheduled are currently on the NPL or are projected to be on the NPL prior to the scheduled construction date. We assume that in the future, responsible parties may volunteer privately-financed remedial response at a small number of non-NPL sites. Sites do not have to be listed on the NPL to qualify for removal response. As in the past, both Fund-financed and privately-financed removal response will occur at non-NPL sites.

Question: If $900 million is appropriated for 1986, and the tax base for the Fund remains the same, what would be the effect on the tax rate in order to achieve adequate funding?

Answer: The CERCLA section 301 studies generally concluded that EPA needs additional revenues to finance a reauthorized Superfund program. Our analysis indicates that a $900 million program in 1986 cannot be supported by the tax base currently in effect. Such a program would require a tripling of the tax rate, and would cause a severe economic impact on the taxed community. The Administration proposal keeps the feedstock tax at its present level while significantly broadening the revenue base by including a waste end tax. This provides a more balanced and equitable tax structure.

Question: Will the Fund be adequate for planned FY 85 activities. If not, at what point will the Fund be exhausted? What will be the affect on planned clean-up activities?

Answer: EPA expects that the Fund will be adequate to support planned 1985 activities. The Fund contained an unappropriated balance of $277.2 million at the end of 1984. Receipts during 1985 are expected to be $67.0 million from interest earnings, $29.0 million from fines and recoveries, $272.0 million from taxes, and $44.0 million from the general fund. The total amount available for appropriation in 1985 is thus expected to be $689.2 million. Congress has appropriated $620.0 million for 1985, leaving an expected unappropriated balance of $69.2 million at the end of the year. Thus, even if there is some slippage in actual revenues, we would still anticipate that the Fund will be adequate for planned 1985 activities.

Question: Will the $900 million requested for FY 86 be adequate if reauthorization includes the mandatory schedules for clean-up which are currently under consideration?

Answer: Two bills to reauthorize Superfund have been introduced in the current Congress, S. 51 and S. 494. Neither bill contains a mandatory clean-up schedule. The $900 million requested for 1986 assumes the initiation of 130 Fund-financed remedial investigations/feasibility studies (RI/FS) at an average cost of $800,000, 89 Fund-financed remedial designs at an average cost of $440,000, and 56 Fund-financed constructions at an average cost of $6.5 million. A mandatory schedule requiring significantly more than 130 Fund-financed RI/FS starts in 1986 would affect only funds needed for RI/FS. Outyear impacts would be greater as the additional projects progress to the design and construction phases.

Question: What proportion of the FY 86 Superfund enforcement budget is planned for administrative orders and civil suits, and what proportion is devoted to cost recovery?

Answer: The Superfund enforcement budget includes $71.9 million and 689 workyears. About half of the funds are for contract support, with the balance used for payroll and administrative support of the Federal workyears. Approximately 17 percent of the workyears and 8 percent of the contract funds are earmarked for negotiations to achieve administrative orders on consent or to issue unilateral administrative orders to compel privately-financed response at sites that are considered to pose an imminent or potential threat to the environment or the health of adjacent populations.

Failing to achieve an administrative response, the Agency will initiate civil action under the authority of CERCLA section 106 to compel response. Approximately 17 percent of the workyears and 18 percent of contract funds will be allocated to this endeavor. We provide continued support of civil litigation to the Department of Justice until the conclusion of the case.

At those sites where financially-viable responsible parties cannot be located or are not responsive to meet the imminent hazard, a Fund-financed response is conducted and we subsequently seek to recover the cost of the response from the responsible parties. Approximately 28 percent of the workyears and 26 percent of the contract funds will be allocated to CERCLA section 107 litigation for cost recovery.

In addition to costs directly associated with issuing administrative orders and conducting and supporting civil litigation, we will allocate approximately 13 percent of the workyears and 28 percent of contract funds to ensure compliance by responsible parties with orders, decrees, and judgments.

WATER QUALITY - SLUDGE MANAGEMENT

Question: The Agency is now several years beyond its statutory deadline for issuing sewage sludge regulations under the Clean Water Act.

What resources are you presently devoting to this effort? Can you personally assure the Committee that those regulations will be issued in the near future? By what date?

Answer: The regulatory efforts initiated at the recommendation of the Sludge Task Force in late 1983 are well underway and will produce proposed Section 405 regulations in June 1986. Work is centered in our Criteria and Standards Division of the Office of Water, where seven workyears and $1 million in contract funds are dedicated to this effort. In addition, two workyears in our Health Effects Research Laboratory in Cincinnati will aid this effort.

WORKLOAD ANALYSIS FOR RCRA REAUTHORIZATION

Question: Please supply to the Committee the current workload analysis of FTE's and monies and time frame it will take to carry out the dictates of the RCRA reauthorization, given the level of your request. What portion of the requirements will be met by end of FY 86, 87, 88, 89, 90?

Answer: The resources requested in 1986 represent our best estimate of what is needed during that fiscal year to carry out most of the dictates of the Hazardous and Solid Waste Act. We have assumed we will have enough resources during 1987-1990 to complete these tasks. We do not, however, have an estimate of what level of resources will be required. We have just begun to implement the Act and do not yet have enough experience to develop useful budgetary estimates for these future years.

Listed below are the requirements we expect to meet by the end of 1986, 1987, 1988, 1989, and 1990.

By end of 1986

- Guidances on joint permitting, State authorization, double liners, prior releases, R&D permits, ban on bare steel tanks, absorbents, waste minimization, loss of interim status, underground tank notifications, and two guidances on variances from retrofitting.

- Hazardous Waste Listings/Delistings
  - chlorinated dioxins and dibenzofurans; chlorinated aliphatics; dimethyl hydrazine; TDI; carbamates; bromacil/linuron; methyl bromide; EDB; paint products; delistings.

- Studies/Reports to Congress on inventory of underground injection wells, small quantity generator waste management practices, and domestic sewage.

- Final Regulations covering revised RCRA underground tank standards; paper procurement guidelines; exposure assessment; underground tank notification; hazardous waste exports; administrative requirements for burning/blending; containerized liquids in landfills; small quantity generators; location standards (vulnerable hydrogeology).

Additional Activity By End of 1987

- Final regulations covering banning wastes (decision rule, schedule, petition process, extend effective date, dioxins/solvents, and California List); technical standards for burning/blending; used oil listing; organic toxicity characteristics; double liners/leachate collection; underground petroleum tanks; EP toxicity; leak detection; domestic sewage; underground non-petroleum tanks.

- Studies/Reports to Congress on waste minimization, extending the useful life of municipal landfills, uniform manifest and small quantity generators, small quantity generator waste from educational institutions, licensing system for transporters of small quantity generator waste, and dioxin from resource recovery facilities.

Additional Activity By End of 1988

- Subtitle D Study/Report to Congress

- Subtitle D Criteria

- Banning Wastes - first third

Additional Activity By End of 1989

- Banning Wastes - second and last third

- Complete issuance of land disposal permits

Additional Activity By End of 1990

- Complete issuance of incinerator permits

AIR

Question: Does EPA plan to continue to decline to list or propose regulations for hazardous air pollutants in areas where it believes the benefits to public health do not justify the costs of control technology?

Do you believe that such action would be in compliance with Section 112 of the Clean Air Act? What is your interpretation of the responsibilities of the Administrator under Section 112?

Answer: EPA believes that the Clean Air Act authorizes the Agency to consider both the significance of the public health risks associated with an air pollutant and the potential reductions in health risks achievable with available control techniques in determining whether and how much to control a particular pollutant under section 112 of the Clean Air Act. Our position is discussed in detail in recent Federal Register actions on benzene, radionuclides, and polycyclic organic matter. We believe that EPA should protect the public from unreasonable risks, rather than attempt to eliminate all risks, and that we should focus our limited regulatory and enforcement resources on problems that yield the greatest health and environmental benefits.

ADMINISTRATIVE CUTS

Question: Because it is primarily a regulatory and enforcement agency, almost 50% of the EPA operating budget is devoted to personnel and related administrative expenses. I would expect that the FY 1986 10% cut in administration would have a real impact on agency operations. With the exception of the hazardous waste and Superfund program, every EPA program area has less money in this category in FY 1986 than in 1985. Please detail for the Committee where these reductions will be taken, and how it will impact agency operations.

Answer: As the Administrator has testified, the 10% administrative cut will be difficult, but can be achieved with some belt tightening within the Agency. The administrative reductions will impact the Agency operations in the following categories: equipment, supplies and materials, printing and reproduction, and program and other contractual services.

Question: For instance, will travel have to be curtailed? Would travel reductions impact permitting and inspections for the water and air programs?

Answer: Overall, Agency travel will not be curtailed by these reductions. Although travel resources for the Air program have been reduced the number of inspections will slightly increase. The Water program's travel resources will be maintained in 1986. The Agency expects to devote more of those resources to implementing the National Municipal Policy and the pretreatment program, both of which will have increased outputs in 1986.

Question: Will the proposed reductions affect planned purchases supporting in-house agency research?

Answer: Expense resources for research will be reduced in 1986. However, the Agency has taken steps to minimize the impact on planned purchases supporting in-house Agency research. To the extent possible reductions have been directed towards administrative expenses, as opposed to programmatic expenses. For example, resources for office equipment and supplies will be reduced (instead of scientific equipment and laboratory supplies). It is important to note that the Office of Research and Development did not take any reductions in either the Acid Rain or Hazardous Waste programs.

ENFORCEMENT

Question: Just over a year ago, Administrator Ruckelshaus initiated a major effort to improve agency attention to enforcement matters. I assume that you will continue that effort.

However, while funding for the Superfund and Hazardous waste enforcement efforts is proposed to increase in FY 1986, funding in the air program for stationary and mobile sources would be reduced. Please indicate how that will affect EPA's capability to raise compliance rates in these areas?

Answer: Although there is a slight reduction in funding for the air program for stationary and mobile source enforcement activities this simply reflects Government-wide reductions to pay and administrative services. On the other hand, there is an increase of 3.0 workyears in the stationary source program. Mobile source progam workyear levels remain the same and contract funds increase slightly. We anticipate that these resources will enable increases in enforcement activities in 1986, including administrative orders, civil litigation support, and State and local tampering/fuel switching program development as well as maintaining our strong base in air enforcement.

WATER QUALITY - PRETREATMENT PROGRAM IMPLEMENTATION

Question: A major recommendation of the interim report of the Pretreatment Implementation Task Force was to increase resources for the pretreatment program. The Task Force recommended that 150 staff positions be added to EPA Regional offices, that EPA Headquarters staff be increased, that grants to States be increased substantially, and that EPA provide one time grants to treatment plants. The 1986 budget provides for only 27 additional Regional and Headquarters staff postions and a small increase in State grants.

Can the pretreatment program be implemented effectively with the limited resources proposed in the FY 1986 budget?

Answer: Successful implementation of the pretreatment program depends to large extent on sound administration of approved programs by local government. Until recently, the Agency's highest priority was to establish State and local pretreatment programs, including taking enforcement actions against POTWs that did not develop the required approvable programs. EPA's emphasis is now shifting to the implementation of local programs, which involves auditing and oversight of POTWs. EPA is providing contractor assistance and is sponsoring workshops to assist municipal officials in establishing successful practices and avoiding potential pitfalls.

While EPA required development and approval of all local pretreatment programs by July 1, 1983, only 766 were approved by the end of FY 1984; another 350 programs were either in public notice or under review prior to public notice. EPA's goal is to have all local programs either approved or referred to the Department of Justice for civil enforcement action by the end of FY 1985. The Agency's 1986-87 Operating Guidance calls for full implementation of local pretreatment programs by control authorities (EPA, States, or municipalities, as appropriate). We think the program can be adequately implemented with the resources requested for 1986.

Question: What explanation does the Agency have for the wide difference between the resource needs identified by the Task Force and the resource levels proposed in the budget?

Answer: In assessing total EPA needs, the Agency has attempted to weigh the needs of the pretreatment program against the needs of other important programs. For example, the 1986 budget contains an increase to provide some additional enforcement support to the program. In the meantime, the Agency will continue to assess resource needs for the pretreatment program. The Agency will also continue to weigh the needs of the pretreatment program against those of other programs, and will provide the pretreatment program with its fair share of any available resources.

NONPOINT POLLUTION

Question: In the recent report to Congress, EPA indicated that half of the States cite nonpoint sources of pollution as the major cause of remaining water quality problems. EPA has developed a national policy on nonpoint pollution calling for better coordination of Federal agency activities related to nonpoint pollution. What is the current status of the national nonpoint pollution policy? When will the policy be formally released?

Answer: EPA established and chaired a Nonpoint Source (NPS) Task Force which met seven times during 1984. This Task Force consisted of 25 senior managers representing appropriate Federal, State and local programs impacting NPS management. The Task Force developed a recommended national NPS policy. Each Federal agency on the Task Force developed a strategy to implement this policy based on existing authorities and resources.

The Task Force presented the policy to then Administrator William Ruckelshaus on December 12, 1984. The current Administrator recently sent letters to the Secretaries of the Federal agencies on the Task Force (Agriculture, Interior, Transportation, Defense, Tennessee Valley Authority) indicating that EPA supported the recommendations of the Task Force and urging these Agencies to begin implementing their NPS strategies. We intend to reconvene the Task Force this summer to review implementation progress and discuss next steps. We are also considering presenting the Task Force policy recommendations to the Cabinet Council on Natural Resources for consideration in the near future.

Question: What steps have EPA and other Federal agencies taken to develop Agency specific strategies to implement the policy?

Answer: As noted above, the Federal agencies on the NPS Task Force each developed their own strategy to better integrate NPS considerations into their ongoing programs and authorities. EPA formally issued its NPS Strategy on February 14, 1985, and is proceeding with its implementation.

GROUND-WATER PROGRAM FUNDING

Question: EPA recently published a Ground Water Protection Strategy which identifies ground water pollution as a serious and wide-spread problem. EPA has established an office of ground water protection and has provided States with $100,000 grants to develop and implement ground water programs. The proposed FY 1986 budget indicates a staff level for the Ground Water Office but does not clearly identify the grant resources to be used to implement the Ground Water Protection Strategy.

Will EPA provide grant assistance to States to specifically support ground-water protection programs and will this assistance be at least at the 1985 level?

Answer: Yes to both parts of the question. For FY 1986, particular emphasis will be given to strengthening State programs through strategy and plan development to support comprehensive State ground-water protection. EPA anticipates that the support for ground-water available nationwide to States under section 106 of the Clean Water Act will be no less than was available in 1985. Specific State amounts may differ from year-to-year, depending on negotiations between the State and the Region.

Question: What is the Agency's estimate of the cost of development of a State ground-water protection plan?

Answer: States are at various stages in their development of ground-water protection plans. The development of such plans are quite complex, involving examination of existing State legislation, authorities, definitions of need, assessment of existing and future problems, and many other factors. These factors differ State-by-State, and it would not be unusual for States to need several years to complete such a process. Costs would vary depending upon the complexity of the task in each State.

Question: Given the current status of State ground-water programs, what is the Agency's rough estimate of the national cost of development or completion of State ground-water plans and programs?

Answer: The States are in various stages of developing or completing ground-water plans and programs. Only a minority of States have developed and are implementing comprehensive ground-water plans. While it may take several years for the States to develop comprehensive plans, the costs will vary from State-to-

FEDERAL FACILITY COMPLIANCE

Question: Please indicate for each applicable environmental statute administered by EPA, the compliance rate and number of Federal facilities and the compliance rate and number of all facilities. Please provide this data for FY 1980, FY 1984, and the present, where available. Finally, please indicate any current enforcement actions against Federal facilities.

Answer: In the past, EPA did not maintain separate compliance rates for Federal Facilities. Therefore, we cannot provide rates for prior years. In FY 1984, EPA began tracking the number of facilities in significant non-compliance. The comparative numbers for Federal facilities are as follows:

	All Significant Non-compliance Facilities	Federal Siginficant Non-compliance Facilities	Percent Federal
Air	513	8	1.5%
Water			
Industrial	187	20	3.4%
Municipal	385	-	-
RCRA	701	32	4.5%

Of the 8 Federal Air Significant Non-compliance facilities identified above, 1 was addressed with an enforcement action in the first quarter of FY 1985. Of the 20 Federal Water Significant Non-compliance facilities, 5 were returned to compliance and 2 were addressed with enforcement actions in the first quarter. Of the 32 Federal RCRA facilities, 9 were addressed with enforcement actions.

In FY 1985, EPA began to track Federal facilities as a separate entity. However, compliance data for the first quarter of FY 1985 is not yet complete. Based upon preliminary data, we project compliance rates as follows:

Air - Class A SIP - 94%

Water (NPDES) - Major Federal Facilities - 80%

RCRA - 70% - 80%

TSCA - No rate.

Question: What is EPA's current policy for assuring compliance of Federal facilities?

Answer: Federal Environmental statutes require that facilities of the U.S. Government comply with Federal, State, and local pollution control requirements. The Office of Federal Activities/ Office of External Affairs manages EPA's Federal Facility Compliance program by developing and implementing a full range of policies and procedures in consultation with EPA's program Assistant Administrators. OFA specifically assures compliance of Federal Facilities by:

- Coordinating implementation of pollution abatement programs with other Federal agencies,
- Providing technical advice and assistance to ensure cost effective and timely compliance,
- Conducting reviews and inspections to ensure compliance by Federal facilities and activities,
- Assisting Federal agencies and OMB in developing budgetary plans for controlling pollution from Federal facilities,
- Tracking Federal Agency Compliance records,
- Resolving disputes between Federal agencies, EPA and/or States regarding non-compliance by Federal Facilities,
- Conducting monthly roundtable meetings with environmental personnel from other Federal Agencies,

- Encouraging development of self-environmental audit programs among Federal Agencies.

OFA expects to improve compliance of Facilities by:

- Increasing the number of inspections at Federal facilities,

- Increasing emphasis on returning Federal facilities to compliance,

- Improving State/Federal relationships as they impact on Federal facility compliance,

- Assisting Federal agencies in developing their CERCLA programs,

- Assisting Federal agencies in implementing RCRA,

- Improving coordination and increasing technical assistance to Federal facilities.

Question: Does EPA need additional authority to assure full compliance of Federal facilities?

Answer: EPA does not need additional authority to assure full compliance of Federal facilities.

Question for the Record Submitted by Senator Simpson

RISK ASSESSMENT AND MANAGEMENT

Question: An Agency budget, like the government as a whole, reflects the views of the drafters as to the relative importance of the various elements. One of the major themes of Administrator Ruckelshaus' tenure was the adoption of principles of "risk assessment" and "risk management."

Does your budget reflect EPA's judgement as to the relative risk posed by, for example, solid waste as compared to general air pollution?

Answer: Yes. The Agency, including its most senior management, spent several months confronting this very issue. The result was the President's Budget for 1986.

This is not to say that we used formal calculations of risk in every instance. Risk assessment and risk management continue to be key principles in the Agency's approach to health and environmental risks. However, the development of an Agency's budget is not as simple as comparing the risks posed by two pollutants and acting accordingly. There is not a direct relationship between the risks posed by a particular pollutant and the current resource level to address that pollutant. A number of factors may contribute to this apparent disjuncture.

For example, many activities in the budget are mandated by Congress, so resources must be directed to meet those statutory commitments. For example, a number of such directives are contained in the 1984 RCRA reauthorization, which requires EPA to ban certain wastes from land disposal, as well as to regulate underground storage tanks and small-quantity generators. The Agency has moved aggressively to meet these Congressional mandates.

In addition, the degree of understanding about a given pollutant is important in determining what resources the Agency should devote to that problem. If the state of knowledge about a particular pollutant is limited, we would try to target additional resources to that problem.

The Agency also must be mindful of its capacity to effectively manage the programs designed to address particular environmental problems. Even when a relatively high risk factor has been determined for a particular pollutant, to ensure prudent program development and management the Agency has a responsibility to gradually apply resources toward the management of that risk.

Question: Did you consider such relative risks as you set your budget priorities?

Answer: Within the framework identified above, the Agency's Operating Guidance presents a two-year plan for program operations with Agency-wide goals and priorities. This document is used to plan and execute environmental programs based on a ranking of the Agency's priority activities. Annual guidance is the keystone for EPA's system to manage environmental risks. The Guidance sets broad goals and objectives to measure environmental progress and lists specific priority achievements for which we hold our managers accountable. The Operating Guidance is used extensively during the Agency's budget priority-setting process.

Question: What budget priorities were affected by your consideration of such relative risks?

Answer: Our 1986 budget includes substantial resource increases to address environmental problems which pose significant risks to human health and the environment, several examples of which follow.

For example, the Superfund budget will increase by $280 million (45 percent over 1985) to address the health and environmental problems caused by uncontrolled hazardous waste sites.

In addition, the acid rain research program will increase by $23 million (61 percent over 1985) to ensure that timely information is available to develop effective, scientifically sound regulatory policies.

In both the Pesticides and Toxic Substances regulatory programs there are shifts of resources away from deadline-driven review of new chemicals (i.e., registration, premanufacture review) and toward review of the hazards associated with existing chemicals (i.e., pesticides registration, toxics Existing Chemicals Review). These shifts were made possible by efficiencies in what by now are routine processes.

Question: What is being done on a continuing basis in this regard--are there on-going studies, etc.?

Answer: To contribute to our ability to weigh the relative risks and resource needs associated with various environmental pollutants, we have continued to strengthen our health and risk assessment research programs in 1986. Our health and risk assessment research will increase by $0.9 million in 1986 to $69.3 million to enhance the scientific basis for estimating the consequences of environmental pollution. Over the past three years we have increased these areas by $18.7 million or 30 percent (change from the original 1984 President's Budget).

The Agency's Risk Assessment Forum, which is being established this year, will receive additional resources in 1986 to resolve technical questions about conducting risk assessments, ensuring that risk assessments are generated and applied in a consistent manner. During the current year final risk assessment guidelines will be issued for chemical mixtures, exposure assessment, and carcinogen and mutagen risk assessments. Proposed guidelines will also be produced for systemic toxicants and assessment of pollutant effects on human fertility.

The Agency has two additional programs that continue to look at the cross-media implications of toxic pollutants: the Integrated Environmental Management program in the Office of Policy, Planning and Evaluation, and the Toxics Integration program in the Office of Toxic Substances. They continue to look at specific chemicals, geographical locations, and industry groups across all media.

Questions Submitted for the Record from Senator Abdnor

WASTEWATER TREATMENT GRANTS

Question: Your proposed "No New Starts" for wastewater treatment grants will have the net effect, as do many of the administration budget reduction proposals, of penalizing "rural America". My State of South Dakota has, in good faith, followed EPA regulations and channeled funds, to date, to support categories I and II projects, projects located in the state's cities. We look to completion of these major projects within the next year. This leaves the states smaller communities on the waiting list----a list that would be cut out if "No New Starts" are allowed. Nationwide these smaller communities share 30% of the wastewater treatment needs but serve only 14.6% of the population. These are not projects which can be phased, each of these projects would cost from $1 - $2 million.

TO WHAT EXTENT HAS THE AGENCY TAKEN INTO ACCOUNT THE WASTEWATER TREATMENT NEEDS OF OUR NATION'S SMALLER COMMUNITIES?

Answer: We believe the Administration's 1986 budget proposal provides an approach to phasing out Federal funding that will enable States and municipalities to plan for assuming increasing financial responsibility in this period of national fiscal constraint. Current funding priorities are based on the greatest expected water quality and public health benefits.

Mr. Abdnor: I am advised that without significant changes in state allocations and state-federal share, the remaining needs in my State will be met within four years. Although I strongly support the concept of reducing the federal role, I recognize that commitments have been made, therefore any changes to the grants programs must be phased-in to avoid adversely impacting any one segment of American. In this case our rural communities.

ASBESTOS-IN-SCHOOLS PROGRAM

Question: A number of my committee colleagues joined me in sponsoring the Asbestos School Hazard Abatement Act of 1984, which authorizes funds for necessary asbestos abatement projects in financially strapped school systems. EPA is currently in the process of implementing this program with $50 million appropriated through a Fiscal Year 1984 supplemental appropriations measure enacted last August.

You are not requesting additional funding for this program even though $50 million is authorized in FY 1985 and $100 million is authorized in FY 1986. To what extent have you evaluated the need for additional program funds to assist school systems in addressing potentially hazardous asbestos problems?

Answer: The need for additional funds depends upon our analysis of the applications for funds which we will receive in March, 1985. When we get those applications we can assess the need for funding beyond the $50,000,000 that has already been appropriated.

Mr. Abdnor: Mr. Chairman, this is an issue of great importance to our nation's schools -- both public and private -- and I know that you share my interest in providing future funding for this program. Frankly, I do not believe EPA would have organized the Asbestos Action Program within Jack Moore's office in order to implement a one-year program.

I trust that EPA will be keep in close touch with us as the agency looks further at the need for additional abatement funds.

Questions for the Record Submitted By Senator Durenberger

TOXIC SUBSTANCES CONTROL ACT

Question: The budget justification for Toxic Substances refers in several places to an anticipated rule under Section 5(b)(4) of the Toxic Substances Control Act (TSCA). In a July 1983 oversight hearing on TSCA, Agency officials stated that a Section 5(b)(4) rule would be issued by fall of that year. What is the present status of this rule, and when is it now scheduled for promulgation?

Answer: The Office of Pesticides and Toxic Substances is now reviewing Section 5(b)(4) as a regulatory option for five categories of chemical substances that have raised concern in the new and existing chemicals program. The scope of this review has expanded considerably since the testimony given in 1983. In particular, we have broadened our review to include existing as well as new members of the categories, and we are now working to develop integrated strategies, addressing both new and existing chemicals, for each of the categories. In developing these strategies, we are considering the appropriateness of other regulatory options as well as Section 5(b)(4). If we decide to proceed with a Section 5(b)(4) regulation, we anticipate a Section 5(b)(4) proposal in FY 1986. This date reflects a delay in the original schedule because we have expanded the scope of our review to include existing chemicals.

Question: How many chemicals or categories of chemicals do you expect to be included in the rule when it is proposed?

Answer: At this point, we are not sure whether all five of the categories now under review are appropriate for listing under Section 5(b)(4); therefore, some of the categories may not be addressed in our initial Section 5(b)(4) action.

Question: How many resources are being devoted to development of this rule?

Answer: The equivalent of approximately fifteen full-time staff are working on general procedural and rulewriting support to the premanufacture review program. A portion of this support (approximately 4-6 FTEs) is devoted to the study and analysis of options for handling categories of new and existing chemicals. This work includes Section 5(b)(4) related activities.

Question: Test rule development under TSCA section 4 appears to be almost entirely limited to chemical substances recommended for priority testing by the Interagency Testing Committee, i.e., those for which the one year statutory deadline is applicable. Is this a correct interpretation?

Answer: To date, EPA's use of TSCA section 4 has been mostly limited to chemicals recommended by the Interagency Testing Committee (ITC). The ITC was established under TSCA to recommend priority candidates for testing to EPA and the Agency is obligated under the statute to act upon all priority designations of the ITC within one year. The required action is either to initiate rulemaking under section 4(a) to require testing or to publish in the Federal Register EPA's reasons for not initiating test rule development.

In January 1981, EPA was placed under a court order to respond (by initiating test rules or publishing reasons for not doing so) to a backlog of 39 ITC designations that had accumulated up to that time. Over the next three years the Agency met all deadlines established by the court order and eliminated the backlog by December 31, 1983. Over the same period, and thereafter, EPA has met the statutory one-year deadline for all new ITC designations. Over the four year period from January 1981 through December 1984, EPA has responded to a total of 74 ITC designations. Seventeen of these responses have been initiations of rulemaking; also, in twenty-two instances, testing was initiated under negotiated testing agreements.

EPA now is working to complete rulemaking on those chemicals. The first final section 4 test rule was issued in October 1984. Several other previous test rule proposals have been withdrawn based on additional data provided to EPA subsequent to the proposals. We still have 16 outstanding test rule proposals to address and we must respond to new ITC designations. This work will absorb most of the resources available in FY 1985 and FY 1986.

Now that we have begun to gain significant experience in the use of TSCA section 4, we are actively pursuing various approaches to streamline our test rules development process and to make it more efficient. We intend through those efforts to get to a point where we can in the future achieve more testing without resource increases. We are also initiating test rule development for some non-ITC chemicals (e.g., urea formaldehyde resins, diethylene glycol butyl ether, and dioxins). In addition, we intend to play a greater role in recommending to the ITC, chemicals about which the Agency is concerned.

Question: Congress did not intend that the section 4 program be limited to ITC chemicals. What additional resources would be required to expand the existing program to include an additional 10 chemical substances beyond those that appear on ITC lists? an additional 20 chemical substances?

Answer: Since EPA is currently looking at ways to streamline our test rule development process it is difficult to project the resources that would be needed to expand the testing program. We would first like to see how many additional non-ITC chemicals could be added to the test rule development process by streamlining our existing process while not requiring additional resources.

However, assuming that most available resources will be utilized for ITC chemicals, EPA estimates that it would need approximately 1 FTE and $100,000 for each additional non ITC chemical analyzed.

Question: On August 22, 1984, Deputy Administrator Al Alm issued a policy memorandum entitled "Interim Policy for Referring Workplace Exposure Problems to the Department of Labor." That memorandum cited two conditions for referral of a regulatory action to the Department of Labor, both of which must be met. The second condition is that "workplace standards (e.g., permissible exposure limits) appear to provide the most effective remedy for all or most of these hazards." Does the Alm memorandum still represent Agency policy? If it does not, please provide the committee a copy of the new policy.

Answer: On February 1, 1985, the Environmental Protection Agency (EPA) announced that it was referring occupational safety and consumer risks associated with asbestos to the Department of Labor (DOL) and the Consumer Product Safety Commission (CPSC), respectively. Since that announcement, work on the referrals has led to questions as to the appropriateness of the decision to refer asbestos. Work on the asbestos referal has been stopped until certain legal questions are answered.

At the time of the decision to refer asbestos, EPA policy was represented by the Alm memorandum as modified by a January 31, 1985 memorandum from Acting General Counsel Gerald H. Yamada. That memorandum stated that "One of the purposes of the formal mechanism required by Section 9(a) is to give the other Federal agency the opportunity to interpret the laws that it administers and to determine whether it is legally capable to prevent or reduce the risk to a sufficient extent". Thus, in deciding on the referral to the Department of Labor of occupational risks, EPA did not prejudge that workplace standards, such as permissible exposure limits, provide the most effective remedy. As stated earlier, the policy and legal ramifications of Section 9 have been found to be more complex than previously thought, and we are reexamining the basis for our earlier referral decision.

Question: If it does represent Agency policy, please provide the committee a copy of the analysis upon which the Agency determined that the condition cited above has been met with regard to asbestos -- that is, that "permissible exposure limits" appear to provide the most effective remedy.

Answer: Copies of the Yamada memorandum, and a March 8, 1985 memorandum from A. James Barnes, Acting Deputy Administrator, are attached. The Barnes memorandum spells out the questions that have since arisen.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
GENERAL COUNSEL

January 31, 1985

MEMORANDUM

TO: Lee M. Thomas
Acting Administrator

FROM: Gerald H. Yamada Gerald H. Yamada
Acting General Counsel

SUBJECT: The Relationship of TSCA To Other Federal
Progams Under Section 9

Issues Presented

You have asked us to advise you concerning EPA's authority to regulate chemical substances or mixtures under the Toxic Substances Control Act (TSCA) when those substances are also potentially subject to regulation under other Federal statutory authority, whether administered by EPA or another Federal agency. Specifically, you have asked that we address:

(1) under what circumstances EPA is required to submit a report to another Federal agency pursuant to Section 9 of TSCA;

(2) the authority EPA has to act (a) pending a response from that agency and (b) after that agency has responded;

(3) the discretion the Administrator has to use the authority under TSCA to regulate a chemical substance or mixture that might be addressed under statutory authority administered by EPA.

Answer

Section 9 establishes a statutorily required procedure to determine to which Federal agency or Federal law should be given the first opportunity to regulate the risk associated with a chemical substance or mixture identified by EPA under its TSCA authority. More specifically, the answers to your questions are as follows:

(1) Under Section 9(a)(1) of TSCA, the Administrator is statutorily required to submit a report to another Federal agency when two statutorily required determinations are made. The first determination is whether the Administrator has reasonable basis to conclude that a chemical substance or mixture presents or will present an unreasonable risk of injury to health or the environment. The second determination is whether the unreasonable risk may be prevented or reduced to a sufficient extent by action taken by another Federal agency under a Federal law not administered by EPA. This section envisions that where the Administrator makes the two determinations required by Section 9(a), EPA must provide a first opportunity to the other Federal agency to assess the risk described in the report, to interpret its own statutory authorities, and to initiate an action under the Federal laws that it administers.

(2) (a) Under Section 9(a)(2), with one exception, EPA is prohibited from taking any action under Section 6 or 7 with respect to the risk reported to another Federal agency pending a response to a report from the other Federal agency. There would be no similar restriction on EPA for any risks associated with a chemical substance or mixture that is not within the Section 9(a)(1) determinations and therefore not part of the report submitted by EPA to the other Federal agency. The exception for EPA to act pending a response is where the other Federal agency has failed to respond within the time limit specified by EPA.

(b) After a report is submitted to another Federal agency and a response is received, EPA may act to regulate the risks described in the Section 9(a)(1) report if the other Federal agency fails to initiate an action under its authorities within 90 days of the Federal Register publication date of its response, informs EPA that it does not have the statutory authority to prevent or reduce the risk to a sufficient extent or agrees the risk is unreasonable but chooses not to regulate. Conversely, if the other Federal agency concludes that the risk described in the report does not present the described risk or initiates an action to regulate the risk, EPA is precluded by Section 9(a)(2) from acting under its authorities as to the described risk.

(3) Where there is an overlap of statutory authorities administered by EPA, the other EPA statutory authorities are given a preference to regulate the risk. But unlike Section 9(a), the Administrator can elect to regulate under TSCA upon a finding that regulation under TSCA is in the public interest.

Section 9 and its Legislative History

In enacting TSCA, Congress anticipated that questions would arise as to the statutory authority and/or agency that should most appropriately be used to regulate risks from chemical substances and mixtures. This was particularly necessary in light of TSCA's role as a gap-filling authority. Thus, before addressing your specific questions, it is helpful to set forth the congressionally provided mechanism for resolving these questions, namely, Section 9 of TSCA, and its legislative history.

Section 9 establishes a statutorily required procedure to determine which Federal agency or authorities should be given the first opportunity to regulate a risk identified by EPA under TSCA. Where there are overlapping authorities between EPA and another Federal agency, Section 9(a)(1) establishes a formal reporting and response mechanism between EPA and the other Federal agency to provide the other Federal agency the first opportunity to regulate under the Federal law that it administers. Section 9(a)(1) provides in part that:

> If the Administrator has reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or that any combination of such activities, presents or will present an unreasonable risk of injury to health or the environment and determines, in the Administrator's discretion, that such risk may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by the Administrator, the Administrator shall submit to the agency which administers such law a report which describes such risk and includes in such description a specification of the activity or combination of activities which the Administrator has reason to believe so presents such risk. [Emphasis added.]

After a report is submitted to another Federal agency, EPA is precluded under Section 9(a)(2) from taking any action under Section 6 or 7 of TSCA with respect to a risk reported to another Federal agency if the other Federal agency either:

> (A) issues an order declaring that the activity or combination of activities specified in the description of the risk described in the report does not present the risk described in the report, or
>
> (B) initiates, within 90 days of the publication in the Federal Register of the response of the agency under paragraph (1), action under the law (or laws) administered by such agency to protect against such risk associated with such activity or combination of activities....

If EPA has initiated an action under Section 6 or 7 with respect to a risk associated with a chemical substance or mixture which is the subject of the report, then Section 9(a)(3) requires that the other Federal agency:

> ... shall before taking action under the law (or laws) administer by it to protect against such risk consult with the Administrator for the purpose of avoiding duplication of Federal action against such risk.

Where there are overlapping authorities between two or more Federal laws administered by EPA, Section 9(b) imposes a preference that the risk identified by EPA under TSCA be regulated under the other EPA authorities unless the Administrator determines that regulation under TSCA is in the public interest. Section 9(b) provides in part that:

> If the Administrator determines that a risk to health or the environment associated with a chemical substance or mixture could be eliminated or reduced to a sufficient extent by actions taken under the authorities contained in such other Federal laws, the Administrator shall use such authorities to protect against such risk unless the Administrator determines, in the Administrator's discretion, that it is in the public interest to protect against such risk by actions taken under this Act.

The legislative history for Section 9 is very limited. The Conference Report best describes the legislative purpose of Section 9 as follows:

> The conferees have drawn from both the Senate bill and the House amendment to assure that overlapping or duplicative regulation is avoided while attempting to provide for the greatest possible measure of protection to health and the environment.

H.R. Rep. No. 94-1679, 94th Cong., 2d Sess. 84 (1976).

The prevention of duplication had been considered in a number of earlier iterations of Section 9 during the first session of the 94th Congress. These sections contained general prohibitions on the use of the substantive regulatory provisions of TSCA if risk could be prevented or reduced sufficiently by actions under other Federal laws. 1/ No formal interagency dialogue was required

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1/ Hearings Before the Subcommittee on Consumer Protection and Finance of the Committee on Interstate & Foreign Commerce, House of Representatives, 94th Cong., 1st Sess. on H.R. 7229, H.R. 7548 and H.R. 7664. (June 16, July 9, 10, and 11, 1975) (Ser. No. 94-41).

in any of the provisions considered. Some of the provisions did require EPA to give public notice and make available to other Federal agencies data relevant to the risk.

The notion of a formal interagency dialogue did not appear until TSCA was being considered in the second session of the 94th Congress, when Section 9(a) began to resemble its final form more closely. The Senate version, like the final version of Section 9(a), provided a two part test for initiation of an interagency dialogue. The Senate version provided that, if the Administrator

> has reason to believe that ... a chemical substance or mixture causes or contributes to, or is likely to cause or contribute to an unreasonable risk of injury to health or the environment, and determines, in his discretion, that such risk may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by the Administrator,

EPA is to "request" the other agency to issue an order declaring whether such risk is presented and, if so, determine whether the risk can be reduced by laws administered by that other agency. [2/] The requirements imposed on EPA and the other agency, and the consequences of the response, were similar to those contained in the final version.

The House bill contained the same two part test for initiation of an interagency dialogue, but differed in two major respects. First, the determination as to whether the other agency's law could reduce the risk sufficiently was not committed to EPA's discretion. [3/] Second, the House inserted the formal requirement to submit a report to the other agency and required both agencies to publish Federal Register statements.

[2/] Hearings Before the Subcommittee on the Environment of the Committee on Commerce, United States Senate, 94th Cong., 1st Sess. on S.776 (March 3, 5, 10, and April 15, 1975) (Ser. No. 94-24).

[3/] Although the determination as to whether the risk may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by EPA is committed to the Administrator's discretion in Section 9(a), this change was made to make clear that this determination would not be subject to judicial review. H.R. Rep. No. 94-1679, 94th Cong. 2d Sess. 84 (1976).

The Conference Committee drew from both versions to establish the relationship between TSCA and federal laws not administered by EPA. Thus, the two part test for the initiation of an interagency dialogue consists of an EPA determination that the agency "has a reasonable basis to conclude that ... a chemical substance or mixture presents or will present an unreasonable risk of injury ..." and a second determination that the risk may be reduced sufficiently by actions taken by another Federal agency under the laws that it administers. After this two part test is met, the final version requires the use of a formal report and response mechanism in the public view [4] to make the decisions as to which Federal agency or statutory authority will be used to prevent or reduce a present or potential unreasonable risk identified by EPA under TSCA. One of the purposes of the report and response mechanism is to "give the other agency an opportunity to act to protect against the risk before the Administrator uses the authorities in Section 6 or 7 to protect against the risk." H.R. Rep. No. 94-1679, 94th Cong. 2d Sess. 84 (1976).

Discussion

Under What Circumstances is EPA Required to Submit a Report to Another Federal Agency Pursuant to Section 9 of TSCA?

Section 9(a) requires that the Administrator must submit a report to another Federal agency if two determinations are made. The first is that the Administrator has reasonable basis to conclude that a chemical substance or mixture presents or will present an unreasonable risk of injury to health or the environment. This determination is a factual determination which must be made on an individual basis and must be supported by the analysis which is made part of a Section 9(a) report.

The second determination requires that the Administrator determine whether the present or potential unreasonable risk may be prevented or reduced to a sufficient extent by action taken by another Federal agency under a Federal law not administered by EPA. This determination must be exercised to avoid regulatory duplication that may be created by overlapping authorities between TSCA and a Federal law administered by another Federal agency. The potential for regulatory duplication is strongest where another Federal agency is already regulating a risk that EPA identifies as a regulatory candidate under its TSCA authority.

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[4] The report submitted by EPA and the response by the other Federal agency must be published in the Federal Register.

In considering the second determination, EPA must make an initial assessment as whether any overlap of authorities or duplication of regulations may exist or be created between TSCA and Federal laws administered by another Federal agency. One of the purposes of the formal mechanism required by Section 9(a) is to give the other Federal agency the opportunity to interpret the laws that it administers and to determine whether it is legally capable to prevent or reduce the risk to a sufficient extent.

Although Section 9(a)(3) authorizes EPA to initiate action under Section 6 or 7 of TSCA with respect to a risk associated with a chemical substance or mixture which was the subject of a Section 9(a)(1) report, this provision is not an exception to submitting a report. Such a reading would be inconsistent with the statutory scheme of Section 9 and with the legislative purpose to avoid regulatory duplication. Furthermore, unlike Section 9(b), Section 9(a) does not allow the Administrator the option to choose to regulate under TSCA rather than submitting a report to another Federal agency after the Administrator has made the two determinations required by Section 9(a). Section 9(a)(3) applies, for instance, where EPA is able to regulate under the circumstances described in Section 9(a)(2),[5] and is not available as an exception to Section 9(a)(1).

If the two Section 9(a)(1) determinations are made, then EPA is statutorily required to submit a report with the other Federal agency that may have overlapping authority to regulate the risk.

What Authority Does EPA have to Act (a) Pending a Response from a Federal Agency to Which EPA Submitted a Section 9(a) Report and (b) after that Agency has Responded?

Under Section 9(a)(2), with one exception, EPA is prohibited from taking any action under Section 6 or 7 of TSCA while EPA is waiting for a response. This is supported by the Conference Report at page 84:

> Section 9(a) establishes the relationship between the Act and Federal laws not administered by the Administrator. If the Administrator has a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture presents

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[5] These circumstances are discussed infra.

> or will present an unreasonable risk of injury and if the Administrator makes a discretionary determination (which is not subject to judicial review) that the risk may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by the Administrator, then the Administrator must give the other agency an opportunity to act to protect against the risk before the Administrator uses the authorities in section 6 or 7 to protect against the risk.

This prohibition applies only to the risks that are the subject of a Section 9(a) report. Various risks or risk elements may be associated with a chemical substance or mixture. Section 9(a) requires that only those risks or risk elements that may be prevented or reduced to a sufficient extent by action under a Federal law not administered by EPA are to be the subject of a Section 9(a) report. For those risks that are not the subject of a report, EPA may proceed to regulate such risk under Section 6 or 7 provided that the requirements of Section 9(b), if applicable, are met. The coordination requirement under Section 9(d) must also be met.

In submitting a report to another Federal agency, EPA can set a deadline for response so long as the other Federal agency is given at least 90 days to respond. Failure to respond within the specified time limit may be a basis for EPA to act. If EPA decides to initiate action under Section 6 or 7 of TSCA, then the other Federal agency must consult with EPA under Section 9(a)(3) before taking action under the Federal laws it administers. The purpose of the consultation is to avoid duplication of Federal action against the risk.

The circumstances under which EPA may act after a response is received from another Federal agency are defined by Congress. Section 9(a)(2) clearly sets forth the two circumstances when EPA cannot act. The two circumstances are described in the Conference Report at page 84 as follows:

> Section 9(a) prohibits the Administrator from acting under section 6 or 7 with respect to the risk about which the Administrator notified the other agency if the other agency takes one or two alternative courses of action. First, if the other agency issues an order declaring that the activity specified in the Administrator's report does not present the unreasonable risk described in the report, then the Administrator may not take action under section 6 or 7 with respect to such risk. Alternatively, if within 90 days of the publication in the Federal Register of the other

> agency's response, the other agency initiates action to protect against such risk, then the Administrator is precluded from taking action under section 6 or 7 with respect to such risk. If the other agency does not take one of these actions, then the Administrator is permitted to act under section 6 or 7 to protect against the risk.

Hence, EPA may act to regulate the risk if the other Federal agency fails to initiate an action under its authorities within 90 days of the Federal Register publication date of its response. EPA may also act if the other Federal agency informs EPA that it does not have the statutory authority to prevent or reduce the risk to a sufficient extent or agrees that the risk is unreasonable but chooses not to regulate. But EPA may not act if the other Federal agency initiates an action to regulate the risk under another Federal law.

The Conference Report at pages 84-5 recognizes that the action initiated by the other Federal agency must be more than the mere open-ended possibility of action:

> The conferees recognized that the other agency may not because of time constraints be able to initiate formal regulatory action to protect against the risk within the specified time period. As long as the other agency has officially initiated an action which will culminate as soon as practicable in effective regulatory action to protect against the unreasonable risk and sets forth a general time schedule of steps for such action, the requirement should be deemed satisfied. However, the requirement that the other agency initiate action to protect against the risk is not satisfied by the mere open-ended possibility of action by the other agency.

What Discretion does the Administrator Have to use the Authority of TSCA to Regulate a Chemical Substance or Mixture that might be Addressed Under Another Statutory Authority Administered by EPA?

Section 9(b) expresses a preference that other EPA administered statutes be used to regulate risks identified under TSCA. The Administrator may set the preference aside and regulate under TSCA if the Administrator determines that it is in the public interest. This is further explained in the Conference Report at page 85:

> Subsection (b) establishes the relationship between this Act and other laws administered in whole or in part by the Administrator.
>
> * * *
>
> If the Administrator determines that a risk to health or the environment associated with a substance or mixture could be eliminated or reduced to a sufficient extent by actions taken under the authorities contained in other Federal laws, then the Administrator shall use such other authorities unless the Administrator determines, in the Administrator's discretion, that it is in the public interest to protect against such risk under this Act. While it is clear that the Administrator's determination that it is in the public interest to use this Act, is a completely discretionary decision not subject to judicial review in any manner, it is expected that the Administrator will review the other authorities and present the results of that review at the same time the Administrator takes action under this Act. While the Administrator's decision to use this Act, notwithstanding the other authorities, is unreviewable by any court, a reviewing court is expected to require that the Administrator have examined the other authorities and present the results of that examination when making the finding that it is in the public interest to use this Act. Of course, the requirement to examine other EPA laws and to make determinations applies only when the Administrator takes regulatory action to protect against an unreasonable risk under this Act. It does not apply when the Administrator takes action necessary for the administration or enforcement of the Act, such as issuing recordkeeping requirements.

Unlike Section 9(a), the Administrator has more flexibility under Section 9(b), to choose the regulatory authority he believes to be most appropriate. In making a determination as to whether it is in the public interest to regulate under TSCA, the Administrator is guided by the factors ket out in Section 6(c) of TSCA.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

March 8, 1985

OFFICE OF
THE ADMINISTRATOR

MEMORANDUM

TO: John A. Moore
Assistant Administrator for Pesticides and Toxic Substances

Milton Russell
Assistant Administrator for Policy, Planning and Evaluation

Gerald H. Yamada
Acting General Counsel

FROM: A. James Barnes
Acting Deputy Administrator
Jim Barnes

SUBJECT: Asbestos/MDA

On February 1, the agency announced that certain proposals concerning the banning/phasedown of asbestos had been withdrawn from review under E.O. 12291 and that it "intended" to make formal reports under Section 9 of TSCA to OSHA and CPSC concerning asbestos and to OSHA concerning MDA. EPA also sent letters to those agencies alerting them to its intent. The basis for the announcement was the agency's belief, at that time, that the referral action was legally required by TSCA. At the time we made the announcement, we had not drafted the referral packages and thus had not actually finalized the findings that trigger a Section 9 report.

Since that time agency staff have been working on the Federal Register packages. Drafts have been prepared, comments offered, and meetings held to discuss issues and to try to obtain guidance. It is becoming increasingly clear that there are a number of legal and policy issues that are inherent in the packages under development. At this time these issues are being resolved on an ad hoc basis as the packages are written and edited in response to comments. While this approach may be appropriate for some decisions, it is unsatisfactory in several respects for addressing the TSCA Section 9 issues currently before the agency.

Asbestos, in particular, poses widespread and very serious health risks and the federal government should proceed as responsibly as possible to address those risks. Moreover, the form and content of the initial Section 9 report will set a pattern and precedent for any to come later.

Accordingly, I believe we should temporarily halt the work on the MDA and asbestos packages and ask OGC to formally address a series of legal questions that have either arisen or that clearly need to be addressed to determine whether the findings that trigger a Section 9 report are present with respect to these chemicals and, if so, how the report should be structured. I have set forth some of the possible legal questions in draft form later in this memo. OGC, the program office and the policy office should review this list of possible legal issues and should modify and/or add to it as they believe appropriate. They should also identify any policy issues that they believe need to be addressed. The next step will be for OGC to address the legal issues and for all offices to develop the considerations involved in the combined list of policy issues. After these have been presented to the Administrator, he can proceed to make final decisions on whether Section 9 reports are required for MDA and/or asbestos, and if so, what their form should be, based on a thorough analysis and discussion of the legal and policy issues.

Draft Questions

The following questions have been drafted to start the process of identifying the critical remaining legal issues. After the list and statement of legal issues is refined, the issues should be addressed by OGC using all available tools of statutory construction, consistent with established rules of statutory construction. The analysis and support for the conclusions needs to be fully set forth.

1. Does the word "risk" as used in Section 9(a) refer to the entire risk EPA has identified with a particular chemical substance? More specifically, (1) is EPA required to consider such risk as a whole or (2) does it have the authority to consider only the risk as a whole for purposes of deciding whether the Section 9 test is met. Concomitantly, (1) is EPA required to segment the risks where segments might potentially be addressed by other agencies or (2) does it have the authority to do so? If the risk must or can be segmented into those addressable by another agency, is EPA required, or does it have the authority, to further subdivide the segmented risk for purposes of deciding whether the Section 9 tests are met.

Would the answers to any of these questions be different if another agency has already initiated rulemaking to address some segment or all of the risk that it has legal authority to address?

2. What is the meaning of the phrase "prevented or reduced to a sufficient extent?" If the meaning is not clear from the statute or its legislative history, does EPA have the authority to define the term? If so, is there any legislative history to guide EPA in establishing that

definition? If EPA makes a Section 9 report to another agency does EPA have the authority to prescribe the standard against which "reduced to a sufficient extent" is to be measured by that other agency? If EPA makes a Section 9 report, is it bound for purposes of Section 9(a) by any statement by the other agency that it has authority to prevent or sufficiently reduce the risk or does EPA have the authority to request the other agency's view and analysis, review that material and then make its own determination as to the adequacy of that authority?

3. Does the word "may" as used in Section 9(a) refer to the legal authority of the other agency? If so, how is EPA expected to ascertain the legal authority of that agency? Must it go through the formal Section 9 referral process or can it request and utilize an informal opinion from that agency?

cc: Lee M. Thomas
Linda Fisher

Question: What does EPA consider to be permissible exposure to a potent carcinogen such as asbestos?

Answer: EPA believes that exposure to a carcinogen such as asbestos should be controlled, consistent with the risk balancing approach embodied in the Toxic Substances Control Act. Exposure limits should be established after considering the effects of the substance on health and the magnitude of the exposure, the benefits of the substances and the availability of substitutes, and the reasonably ascertainable economic consequences of any control action.

Question: How many resources are anticipated to be devoted in FY 1986 to review and challenge confidentiality claims under TSCA?

Answer: Approximately 5 FTEs will be devoted to review/challenge confidentiality claims in FY 1986. These resources will be required to review chemical identity confidentiality claims asserted in Section 5 Premanufacture Notifications (PMNs) and claims for data contained in Section 8(d) Health and Safety Studies and Section 8(e) Substantial Risk Notifications.

Question: How many resources would be required to review and, if needed, to challenge all claims of confidentiality?

Answer: An estimated 65 FTEs would be required to review and, if needed, to challenge all claims of confidentiality. This estimate reflects resources required of both the Office of Toxic Substances (OTS) and the Office of General Counsel (OGC) and applies to the review of all confidentiality claims contained in Section 5 PMNs, and in Health and Safety Studies and Substantial Risk Notifications submitted under Sections 8(d) and 8(e), respectively. To challenge those claims which have the greatest likelihood of being denied, such as claims for confidentiality in Section 8 submissions, would require 20 FTEs.

Of the 65 FTEs, OTS would require approximately 30 FTEs; the remaining 35 FTEs represent OGC resources needed to advise the Office of Toxic Substances on confidentiality issues and to review proposed confidentiality determinations. However, additional OGC resources would be required if a significant number of confidentiality determinations resulted in litigation.

Question: Please estimate the amount of resources from the Office of Toxic Substances (in terms of FTE's, extramural and intramural dollars) that were required in FY 1985 and will be required in FY 1986 for compliance with the requirements of the Paperwork Reduction Act; of Executive Order 12291; of Executive Order 12498.

Answer: To satisfy the requirement of the Paperwork Reduction Act, the Office of Toxic Substances (OTS) must compile an annual Information Collection Budget (ICB) detailing the anticipated information collection activities for the ensuing fiscal year. OTS resources in FY 1985 and 1986 to compile the annual Information Collection Budget and to develop and process the Information Collection Requests (ICR's) are estimated at 1.0 FTE and $40,000 in intramural dollars. Extramural resources are also used in developing the Information Collection Request justification package; the estimated costs are $120,000.

Within the Office of Toxic Substances the evaluation of the economic impact of potential regulatory actions is a requirement of TSCA. As a part of this process the Office ensures that the costs of OTS regulations are justified by their benefits as required by Executive Order 12291. The requirements of E.O. 12291 would not lessen the requirement under TSCA for economic impact analysis. About 20 FTEs, $650,000 intramural, and $1.6 million extramural are spent in economic analysis.

Questions for the Record Submitted By Senator Burdick

SECTION 18 EXEMPTION FOR METALAXYL

Question: I have received several inquiries from sunflower growers in North Dakota regarding EPA's action on new registration on Section 18 exemptions for the seed treatment Metalaxyl (APRON FL) which controls mildew.

Apron FL is currently registered on several crops, such as alfalfa and sorghum. This registration does not include sunflowers. However, it has been used in 1982, 1983 and 1984, under Section 18 exemptions in North Dakota, South Dakota, and Minnesota domestically and in Texas and California for export treatment. The sunflower crop represents a value of approximately $500 million to the American farmer. Additionally, exports of hybrid sunflower seeds for planting represent about $5 million annually.

EPA withdrew this emergency label because of inadequate data presented by the manufacturer (CIBA-GEIGY). It is my understanding that the manufacturer has provided additional information that supports its conclusion that there are no known human health concerns which would prevent further use.

The National Sunflower Association has requested my assistance in encouraging EPA to lift the ban on registrations or the ban on Section 18 labelling. Because of the concern that EPA would not take the desired action in time for the 1985 crop planting, the chemical industry and the U.S. Department of Agriculture have proposed an alternative seed treatment known as ANCHOR. The sunflower industry would support the second product, even though it is less desirable. Both ANCHOR and APRON FL effectively control mildew, however ANCHOR is applied by the individual farmer and APRON FL is applied by the seed distributor.

I am interested in knowing if EPA has a continued objection to the granting an emergency label to APRON FL?

Answer: In April 1984, the Agency decided not to expand any further the use of metalaxyl due to questions concerning toxicology data which had been submitted to the Agency. This action included halting any further food or feed uses of metalaxyl, including use on sunflower seeds, due to the potential increase in dietary exposure. Ciba-Geigy has worked closely with the Agency over the past year in providing data necessary to resolve these questions. Some of the data the Agency requested from the manufacturer were only recently submitted (February 22, 1985). The Agency is currently reviewing these data. Until the Agency's concerns over potential dietary risk have been addressed, the Agency will be unable to authorize any additional uses of metalaxyl.

An exception was made, however, regarding treatment of sunflower seeds for export only. Section 18 exemptions were subsequently granted in 1984 to California, Minnesota, North Dakota, and Texas, authorizing the use of APRON FL on sunflower seeds intended for export only. Authorization of these particular exemptions was justified on the basis that: 1) foreign countries importing sunflower seeds require that the seeds be treated with metalaxyl, 2) there is no domestic dietary intake involved, and 3) the margin of safety with respect to applicator exposure is acceptable. These exemptions expire on April 30, 1985, for Texas, North Dakota and Minnesota and on September 15, 1985, for California.

Question: If there is no objection, can approval be granted in time for in-plant treatment by late March or mid-April prior to seed distribution?

Answer: In order to treat seeds in time for planting in late March or mid-April, a section 18 exemption for Apron FL would have to be granted within the next few weeks. For the reasons discussed above, it is unlikely such approval will be possible.

Question: If EPA does not approve the use of APRON FL, what position will the agency take on the new ANCHOR treatment?

Answer: The Agency is unable to state what position it will take with respect to ANCHOR until it has reviewed available scientific data in concert with a proposed use pattern. Neither a section 18 exemption nor a section 3 registration application has been filed with the Agency.

Question: What type of review process is necessary in order to market this new product?

Answer: Anchor is a new chemical, one which has not been registered with the Agency. Current Agency policy with respect to section 18 exemptions is to closely scrutinize use of new chemicals and solicit public comment. Only on rare occasions does the Agency anticipate authorizing new chemicals under a section 18 exemption. A request for use of Anchor would only be considered if a real emergency existed and there were no registered alternative pesticides. Such a request would be granted only after publication in the FEDERAL REGISTER for public comment and review of scientific data and review of information concerning the emergency. Approval of such a request would be likely to take 50 days at a minimum to complete action once a request is submitted.

A section 3 registration request would have to have the complete set of data requirements as outlined in 40 CFR Part 158 and would take a minimum of 6 months to review.

INDOOR AIR TOXICS

Question: I recently became aware of the results of a preliminary barebones EPA staff assessment of cancer risks posed by exposure to toxic pollutants. EPA has established an internal work group to review what implications the study has for long-term policy and resource planning. Of particular interest, is the finding that exposure to air toxics, especially those found indoors, poses by far the greatest environmental health risks. I would appreciate additional information on:

-- budget for the work group and reporting deadline

-- scope of initial findings and further study on indoor air toxics

Answer: The budget for the original staff assessment was about three workyears and $220,000. The budget for the follow-up on the assessment, leading to the work plan, is about two workyears and $100,000. No funds for additional air quality research or regulation are included in the FY 1986 budget request.

The original staff assessment, "The Magnitude and Nature of the Air Toxics Problem in the U.S.," is now being revised in response to comments received as part of an external review. The initial findings on indoor air toxics were based on a rough risk assessment performed using rural and urban personal exposure data acquired from EPA's Total Exposure Assessment Methodology (TEAM) study. The assessment concluded that concentrations of several pollutants are commonly several times higher indoors.

A conceptual framework for a three-part national strategy for air toxics, based on the staff assessment, has been presented to the Administrator. A detailed work plan for the implementation phase of the strategy, including estimates of resources necessary, is under development and is scheduled for completion in mid-March 1985.

Although no funds for additional indoor air research have been requested in the FY 1986 budget request, data from the TEAM study will be used in emission rate determinations for building materials and consumer products as part of the Interagency Committee on Indoor Air Quality indoor air research program and EPA's development of a toxics air monitoring system. The TEAM approach will be used to identify and quantitate human exposure to major pollutants in the World Health Organization-Human Exposure Assessment Location (WHO-HEAL) Project and in the EPA study of human exposure to pesticide products (Pesticide TEAM Study).

FISCAL YEAR 1986 BUDGET REVIEW

THURSDAY, FEBRUARY 21, 1985

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m., in room SD-406, Dirksen Senate Office Building, Hon. John H. Chafee presiding.

Present: Senators Chafee, Abdnor, Bentsen, Mitchell, and Lautenberg.

ENVIRONMENTAL PROTECTION AGENCY—[Continued]

Senator **CHAFEE** [presiding]. Good morning. The committee will please come to order.

We will continue today with the statement of Mr. Lee Thomas that we did not have time to complete yesterday. Mr. Thomas, if you will continue.

Mr. **THOMAS**. Mr. Chairman, I have several people here with me today that I would like to introduce. First, Mr. Jack Ravan, Assistant Administrator for Water; Mr. Chuck Elkins, Acting Assistant Administrator for Air; Ms. Courtney Price, Assistant Administrator for Enforcement and Compliance Monitoring; Mr. Don Ehreth, Deputy Assistant Administrator for Research and Development; Mr. Howard Messner, Assistant Administrator for Administration and Resources Management; Mr. Jack McGraw, Acting Assistant Administrator for Solid Waste and Emergency Response; Mr. Milton Russell, Assistant Administrator for Policy, Planning and Evaluation; Mr. John Moore, Assistant Administrator for Toxics and Pesticides; Ms. Josephine Cooper, Assistant Administrator for External Affairs; and Mr. A. James Barnes, Acting Deputy Administrator.

We also have a whole raft of other people who are here to watch, participate, and support.

Senator **CHAFEE**. Under the arrangements today, you will be on first, Mr. Thomas, and then we will hear from Mr. Drayton. That will conclude our hearings. We will restrict our first round of questions. Do you have any further statements to make Mr. Thomas?

Mr. **THOMAS**. Mr. Chairman, we have received a number of questions to which we would be pleased to respond, preferably after we have received the complete set of questions submitted by the committee. I believe the date of March 1 will be very satisfactory to us.

Senator CHAFEE. Very well, Mr. Thomas. We will now proceed with our questions. I will start off and some of them will apply to Mr. Ravan.

My questions primarily deal with the Construction Grants Program. The Construction Grants Program originally anticipated the needs survey to be $50 billion, of which EPA's share would be $36 billion—I think it is $35.8—call it $36 billion. Now under this present arrangement, that will be $6 billion. As I understand it, EPA had a task force study which came up with a system of $18 billion through an orderly phaseout. My question is, how are we going to get from here to there? The requirements, just taking EPA's share, are $36 billion but you think you can get that down to $18 billion and we are ending up with $6 billion. Where does that leave us?

Mr. THOMAS. Let me make one overall comment and then let Jack provide additional detail. We have looked closely at the recommendations that came out of that task force and we have also looked at several alternative methods for phasing out the Construction Grants Program. We think with the $6 billion we can phase out the Construction Grants Program over the next 4 years and, at the same time, maintain a commitment to completing the primary treatment components—the core components—of the major plants that have been in the planning stages around this country. The key to it has to do with the program eligibility requirements. We think that one of the alternatives to talk through with you is how we could possibly modify those program eligibility requirements. That has to do with things like modifications on the matching requirements, modifications on what is eligible beyond those primary treatment core components at the plants. We think we can give you some suggestions that have that kind of programmatic objective and, at the same time, meet the $6 billion requirement we are looking at.

Senator CHAFEE. That is all well and good, but when are you going to have a bill?

Mr. THOMAS. I am working to try to get you some suggested language from our point of view on construction grants next week. I've got four alternatives I'm going through now, and trying to come to final conclusion on how we can propose a phaseout. Next week is the timeframe I am looking at to get you something. That is on the Construction Grants Program. I've got a whole series of other proposals that are in interagency clearance now on the overall Clean Water Act. I'm hopefully going to have those completed in the same timeframe.

Senator CHAFEE. Next week?

Mr. THOMAS. Hopefully.

Senator CHAFEE. Let me just go back to what you are talking about when you say changes in the formula. We changed those quite dramatically in 1981—we're down now to 55 percent.

Mr. THOMAS. No, we've still got a few grandfathered at 75 percent.

Senator CHAFEE. That's right. My first question is what do you mean by core treatment?

Mr. THOMAS. Jack.

Mr. RAVAN. Sir, that would be treatment plant only.

Senator **Chafee**. I see. No interceptors?

Mr. **Ravan**. No sir, nothing beyond the treatment plant.

Senator **Chafee**. That's what you're thinking about, in other words. Let me ask you this. In your budget summary—when you're dealing with the construction grants—you talk about limiting the funding to ongoing projects. What does that mean? As Mr. Thomas just mentioned, in the 1981 act we took those projects that were in segments—grandfathered in at the 75 percent. How would all this be affected by the so-called ongoing projects?

Mr. **Thomas**. Mr. Chairman, that would, in fact, become the critical point. If a project, under the present proposal that you have before you, has, in fact, been segmented, meaning it has started as a project but it has also been segmented—we have not made a grant for all parts of the project itself—those projects would be allowed to continue. There would be, under the present definition, no new starts, meaning that we would complete the segmented projects.

Senator **Chafee**. It gets kind of complicated when you get to segments. Let's wait and see what you have to say on that. It seems to me a short phaseout period like you're talking about—in effect 4 years—would jeopardize the water quality gains we've made to date. What do you say to that?

Mr. **Ravan**. Senator, we have attempted for the first time in the 1984 needs survey, about which the staff has been briefed, to show that if the program ended your statement becomes obviously very true. If, in fact, the program should continue under some new design and, if the other side of this law, the enforcement side, were emphasized then we would not lose the water quality benefits. However, if the construction grants phaseout meant no new construction either by State or local, and if we were not carrying out the arm of the law, then we would lose those water quality benefits.

Senator **Chafee**. You have a program that, as far as the construction grants go, goes into a step down. What is it, a $400 million a year a $600 million a year step down? In dealing with the budget that we have before us, you submitted the $2.4 billion which we have been working with and no one is suggesting that we go above that; what is there in this budget that commits us to the step down? What are we doing here, solely in the construction grants, by adopting this budget? Are we making an irrevocable commitment that we would go to the 600 billion step down next year.

Mr. **Thomas**. Senator, I believe that the budget for 1986 would not do that. That would be what you would consider in the reauthorization of the Construction Grants Program— separate legislation. I don't think there is anything in the budget for 1986 that would commit you to that step.

Senator **Chafee**. When you come up with your legislation that is a separate subject. That is where you could only go to those projects that are under construction and so forth.

Mr. **Thomas**. In the budget there is a proposal for stepping down construction grants in out years and there is the 1986 level. In the language we are working on for reauthorization of construction grants as part of the overall Clean Water Act reauthorization, we are looking at the option that is in the budget as well as several other options to propose to you for consideration in that reauthorization process, which is a separate matter.

Senator CHAFEE. The water quality programs in this budget, are cut by a little less than $10 million—$9.6 million. Where are you going to make those cuts?

Mr. RAVAN. Senator, that is a bit misleading on the $13 million. The principal portion of that minus is because the Akron project is zeroed out in this 1986 budget. There is, in fact, some moving around of funds in regard to the water quality program. The Office of Water proposal for the 1986 budget is a basically flat budget.

Senator CHAFEE. I'm looking on page 25 of your document "Summary of the EPA Budget," second paragraph; "The President's 1986 budget provides two point" so forth, "2000" so forth work years, and "$238 million for water programs, a decrease of 19 work years and $9.6 million."

Mr. RAVAN. Senator, I stick with my explanation of the overall net dollar decrease—I'll have to run those totals for you for the Office of Water. Our budget may show movement like that in water quality versus drinking water but we didn't take that much of a cut in this budget in the Office of Water.

Senator CHAFEE. My time is up but I am going to get back to that question. Why don't you see if you can get me an answer to that. Senator Lautenberg?

[The information follows:]

EXPLANATION OF DECREASE IN WATER QUALITY MEDIA

Summary of Changes

	Workyears	$M
Total, Water Quality	-19.1	- $9.6
Salaries & Expenses	-19.1	- $3.2
Abatement, Control & Compliance		+ 10.0
Research & Development		3.4
Abatement, Control & Compliance-Akron		- 13.0

Excluding the reduction of $13 million for the one-time appropriation for the waste-to-energy plant in Akron, Ohio, the Water Quality media has a net increase of $3.4 million.

The workyear decrease is the net result of several shifts, primarily:

- a transfer of 11.9 workyears to support STORET to the Management media,
- shifts within the water quality media to increase municipal and pretreatment enforcement,
- increases for water quality research (+12.6) and dredge and fill activities (+7),
- decreases of 25 workyears in water quality reprogrammed to the drinking water media to support UIC permitting and ground-water activities.

Salaries and Expenses decrease of $3.2 million is due to the 5% across the board pay cut, the government-wide administrative expenses cut, and the workyear shift (both the monitoring functional shift and reprogramming of WQ workyears to Drinking Water media)

The abatement, control and compliance increase of $10 million is the net result of several changes, primarily:

- a shift of $4 million from R&D for estuarine programs,
- an increase of $4.5 million for oceans,
- an increase of $3.7 million for 106 grants,
- decreases of $3.75 million for Clean Lakes Grants and $1.25 million for operator training,
- decreases in effluent guidelines and monitoring,
- increases in enforcement and permits ($2.7 million)

Senator LAUTENBERG. Thank you, Mr. Chairman. I was reading a magazine that wasn't typically National Geographic. One usually gets pretty pictures of lakes, streams, mountains, and so forth. This one describes storing up trouble and shows the horrendous pictures of disease resulting from exposure to pollution. Included, unfortunately, in the portion on New Jersey is the picture of the Bridgeport waste site. We'll talk about that a little bit. Lee, I have a series of questions I want to ask you about the assumptions that went in to the $5.5 billion figure. If you can, I would like yes or no answers since we are limited on time. I know they are complicated estimates, but the questions I want to pose do have a yes or no opportunity and I intentionally want to ask them that way. I want us to be very clear on the record as to what the $5.5 billion number means.

In your presentation yesterday, you talked about the expanded Superfund budget and I know that that includes a proposal for an estimated number of sites to be cleaned up. I believe that number is somewhere around 75. Is that correct?

Mr. THOMAS. That number would refer to the number of sites that are to be cleaned up with money from the fund on the remedial side as opposed to sites under the emergency program, or sites that are cleaned up through enforcement action.

Senator LAUTENBERG. We'll come back to that if we have the time. The $5.5 billion figure does not include any inflation factors, does it?

Mr. THOMAS. The $5.5 billion figure is an estimate that was used for a 5-year projection—$900 million being the figure for next year, which has specific detail to it. We've incorporated into that $5.5 billion an estimated inflation factor. It is $5.3 billion without inflation and $5.8 billion with inflation. What you need to bear in mind is that is a projection at this point for those 5 years. It is just an estimate. The $900 million for 1986 is a specific figure.

Senator LAUTENBERG. The $5.5 billion figure does not allow for increases in the cost of clean up per site despite the fact that the agency's own estimates have been revised steadily upward. I believe the figures are: $2.5 million in 1981 per site; $4.5 million in 1983; $6.5 million in 1984; and, roughly $8.1 million in 1985. Is that correct?

Mr. THOMAS. I think those figures are correct but we feel the figures that are in that $5.5 billion figure are the figures that will hold steady. Obviously, as the program has grown, we have gained experience and we think we have a good figure now.

Senator LAUTENBERG. $5½ billion does not take into account the payment of natural resources damage claims. Is that correct?

Mr. THOMAS. It takes into account funding for natural resource damage assessments both on an interagency basis and, as far as staffing is concerned. It does not take into account a specific figure that would be set aside for claims from the fund for natural resource damages.

Senator LAUTENBERG. Do you know that there are about 3 billion dollars' worth of claims pending?

Mr. THOMAS. There are over $2 billion in claims that have been submitted to the agency in the last year.

Senator **Lautenberg**. So, what you are saying is that it's really not factored in, yet those things are staring us in the face.

Mr. **Thomas**. That's correct. We have those claims. However, as you know, we rejected those claims on procedural grounds. We have a court suit; I have a court date; we're still in the middle of litigation concerning those claims.

Senator **Lautenberg**. Are you optimistic that you are never going to have to satisfy them?

Mr. **Thomas**. I am. As you know, under the natural resource damage claims section of the act, you have the same options you have under the other act; that is, to either attempt to recover your claim from responsible parties or to file a claim against the fund. Those are our options. The claims against the fund, as I've indicated to this committee in the past, given the volume of sites that require response action, have been given higher priority than paying claims for natural resource damages.

Senator **Lautenberg**. The risk certainly is there, in any event, despite your view. The $5.5 billion does not take into account any new policy on how clean is clean or other changes that you propose to the NCP.

Mr. **Thomas**. We do feel that figure is reflective of the policy positions of the agency concerning how clean is clean. Basically, Senator, the policy position that we've now proposed in the NCP revision is consistent with the position I've taken in the agency on cleanup decisions for over a year.

Senator **Lautenberg**. Do you have any idea of what percentage of the budget might be required by these policy changes?

Mr. **Thomas**. I could give you some specifics on that for the record. The impact of the kinds of things we've got in the NCP revision is largely in the remedial program. As I said, I think the decisions we will make under those proposed changes are consistent with decisions we've made during the last year and a half as far as cleanup standards are concerned.

Senator **Lautenberg**. Obviously you can't take into account any program changes the conference might make, can you?

Mr. **Thomas**. No, sir.

Senator **Lautenberg**. How many sites have been fully cleaned up to date?

Mr. **Thomas**. We've completed cleanup at approximately 200 sites. The majority of those sites were ones that we cleaned up under our emergency authorities.

Senator **Lautenberg**. How many of those are on the NPL list? How many of those sites were cleaned up that were on the NPL list?

Mr. **Thomas**. Of the sites on the national priority list, there are really two categories I should speak to. One is the sites that we've cleaned up and have been monitoring, and we've got about 10 sites in that category. The sites that we've completed monitoring to the point we are ready to propose formally a delisting, and we've delisted six sites, constitute the second category.

Senator **Lautenberg**. How many sites do we have on the list right now?

Mr. **Thomas**. We have a little over 500 final sites. We have over 200 proposed sites for a total of 786.

Senator LAUTENBERG. Ten have been cleaned up?

Mr. THOMAS. I'd say you're talking more like 15 or 20 have been cleaned up; 6 of which have been delisted. Bear in mind, 286 of those sites—about 275 of those sites—were only added to the list 2 or 3 months ago. A number of those sites we've taken action on. Of the 786, we've dealt with nearly 200 sites just with our emergency cleanup program.

Senator LAUTENBERG. You're familiar with this Bridgeport oil site?

Mr. THOMAS. About 2 months ago, I committed $56 million to clean it up.

Senator LAUTENBERG. So you approved the cost of cleanup for that site. I guess that's the largest amount ever——

Mr. THOMAS. It is. That's the largest record of decision for a project that I've made and it is for the program, too.

Senator LAUTENBERG. I have just one more question. We talked about some decision on the ocean dumping matter and the decision was supposed to come down in the fall. Fall has gone and spring has come. Where do we stand now in that decision?

Mr. THOMAS. I received your letter yesterday, Senator, concerning the 12-mile site and final decision by EPA. It has taken us longer than we had originally anticipated to come to final conclusion on that site because of the volume of comment we received and the amount of time required to complete that. We're anticipating that by the end of March or first of April we will have a final decision on that site.

Senator LAUTENBERG. Would you say that's a firm date?

Mr. THOMAS. Yes, sir.

Senator LAUTENBERG. Thank you very much.

Senator CHAFEE. Senator Mitchell?

Senator MITCHELL. Thank you, Mr. Chairman. One of the reasons I asked yesterday that you come back today was to ask some questions about the proposal to phase out the Sewage Treatment Construction Grant Program. I understand that Senator Chafee asked several questions about this before I came and, so, I will not get into that. I do want to say, however, that I hope you will carefully consider the importance of the program when you come up with any alternatives you propose. I, for one, am, and will be, very strongly opposed to the elimination of the program. I think it is the most tangible commitment we have to the protection of our environment. It has proven to be a very important program.

I'd like to ask about a couple of other areas and then get into Mr. Drayton's statement. The proposed budget does not include funding for the Clean Lakes Program. The administration has tried for some previous years to zero out that program. Congress has restored the funding each year on the belief that large numbers of lakes are seriously impaired. I cannot say from personal knowledge how the program has worked elsewhere but, in Maine, it has been a very useful program and I have been contacted by the commissioner of environmental protection for the State expressing his concern about that. I wonder if you would be willing to undertake a review of the current information concerning lake quality, the effectiveness of the program needs, and to reconsider the decision to zero it out, or maybe, to suggest alternatives and provide a report to this committee.

Mr. THOMAS. Senator, I'd be glad to provide as much information as I could to you as you consider that program. I will say, I also have heard basically good reports on the Clean Lakes Program. The program, however, had been anticipated as a pilot or demonstration type program and, we felt or do feel, the appropriate time for States to continue that program had been reached. Obviously, Congress hadn't agreed with our program over the last couple of years. We felt that as it had demonstrated its effectiveness in areas as pilots, that it had served its purpose and that information could be transferred to States and they, in turn, could carry forward with programs like that if they desired.

Senator MITCHELL. As I pointed out yesterday, if you phase-out the Construction Grants Program you impose a truly enormous burden on the States and make it virtually impossible for them to address the many other areas. We can look at this as one program here and one program there, but the State government is limited as to its resources. Here's a good example of the point I was making yesterday. We can turn this back to the States and let them deal with it on the left hand, and on the right hand we are saying that we want to eliminate the Construction Grants Program. That is a major area of need in the States and if they have to pick up the entire program, it would be virtually impossible for them to do anything to address this problem. I think it illustrates the dilemma that we will impose on the States if we proceed down this two track lane that's been suggested in the budget. At your confirmation hearing, Mr. Thomas, I asked you about the status of exploratory research related to indoor air pollution and radon assessment control. I have been advised by my staff that your staff has indicated that we should get a reply in the next week or so.

Mr. THOMAS. Senator, I went over tentative information with my staff a couple of days ago on a response. There was some confusion as to the information you were interested in, particularly in the radon assessment area. We do have tentative information now as to exactly where we are with several studies. I suggested to my staff that they ought to sit down with your staff and go through the information we have to see if that is sufficient. I have a feeling there may be a broader area of concern that you have than what I had back from my staff.

Senator MITCHELL. Fine. We'll pursue that and look forward to it. I think that is a very important matter and particularly crucial in some States by virtue of climate and geology. Maine, in particular, suffers very serious problems. It is by no means alone in this. I hope very much you will be prepared to proceed with the kind of research program that I think is necessary.

[The following information was supplied in response to Senator Mitchell's request:]

Q. What is the status of exploratory research related to indoor air pollution and radon assessment control? What will be required in terms of resources and study time-frame; and what are the study purposes and objectives?

A. In 1983, before a subcommittee of the House of Representatives Committee on Science and Technology, the Environmental Protection Agency (EPA) stated that it supported research on indoor air related pollution for two fundamental purposes:

1. to improve the accuracy of our risk assessments by quantifying total exposure resulting from indoor and outdoor concentrations of ambient air pollutants

2. to produce information and provide it to consumers, private sector groups, and state/local authorities for purposes of instituting controls or modification in building designs.

The research program continues to have these same purposes.

The Congress provided two million dollars to EPA in 1984 and another two million dollars in 1985 for indoor air research. Appropriations Committee reports for both the Department of Energy and EPA requested the agencies to coordinate the development of an interagency/Federal government research strategy. The Interagency Committee for Indoor Air Quality (CIAQ) assumed responsibility for this task. In 1983, Congressional appropriations report language directed EPA to coordinate indoor air quality research with interested Federal agencies. The Department of Energy (DOE), the Consumer Product Safety Commission (CPSC), and the Department of Health and Human Services (HHS), have assisted EPA as cochairs of the 16-member CIAQ. The CIAQ has met with the scientific community as well as the private sector (building community) and consumers to discuss indoor air issues.

In December of 1984, the EPA completed a document describing a research strategy and the status of research on indoor air pollution, including research on radon. This document has been submitted to OMB for clearance and is expected to be sent to the Congress in the very near future.

The FY 1986 Environmental Protection Agency budget does not contain resources for indoor pollution. The FY 84/85 resources will permit finalizing work associated with developing and evaluating most of indoor air monitoring and sampling equipment for major pollutant classes; evaluating risk reduction technologies for radon emissions, in cooperation with DOE, Bonneville Power, and other groups; reviewing historical exposure data; and developing exposure models with consideration for building design and energy conservation practices. Also, resources will be used in conjunction with other Federal agencies to conduct pilot field studies which will provide information to design a national multi-pollutant field survey. After the strategy is forwarded to Congress, we will be in a better position to assess the future role of the Environmental Protection Agency in the conduct of indoor air research.

Senator MITCHELL. Let me now turn to Mr. Drayton's statement. One of the problems we have in this hearing process is that, unlike a court of law, here you come in and speak and then you leave. If someone else says that is not correct, we never have a way of getting you back for your reply. In an effort to deal with that problem, I will refer to Mr. Drayton's statement. He is a well-known and respected person in this area and he has made a very forceful and dramatic statement that indicts the entire approach over a course of years involving the administrations of both parties. I would, therefore, like to have you to respond to his statement at this time. Let me just briefly quote from it and ask you to comment.

He says:

> Put briefly, EPA's performance over the last several years provides overwhelming evidence that we have made a serious mistake. We allowed the many new laws this committee and the Congress passed over the last fifteen years to protect the public to take effect without providing the very substantial new resources that would have been necessary to implement them.

He goes on to say:

> The result has been an extraordinary failure to get the job done—a failure to research, to screen chemicals, and to implement the law in the field.

I don't know Mr. Drayton very well. I apologize to him in advance for kind of stealing his stuff here and I hope he won't mind. It seems the appropriate way to get the issue out. Have you read his statement, Mr. Thomas?

Mr. THOMAS. Yes I did, last night. I also asked the staff last night if they would begin preparation of a response to the statement with specifics in response to the question you asked me yesterday. I would like to provide that for you for the record—a copy of the response from the agency. I would like to take time to insure that our program offices have the opportunity to look at the specifics.

Senator MITCHELL. I think that would be very useful. A detailed rebuttal, point by point of the allegations and statements made in this, would be very useful in joining the issue for us.

Mr. THOMAS. We will do that, Senator. I will say I did read over the statement and it is not unlike a statement and report that Mr. Drayton issued last year. As a matter of fact, it has some of the same findings in it. My predecessor took strong exception to the statement last year and I think I will take strong exception to the statement this year. I think there are facts, figures, and statistics that have been used out of context. I think there is a lack of use of some facts and statistics that are positive. I think that there is often a comparing of apples to oranges when we compare what we had in a budget so many years ago to what we have in a budget today. In fact, what we need to concentrate on is exactly what we are purchasing in that budget we are proposing and what merit we have in the request we've made.

I think there are some points in his statement that are legitimate. I don't want to completely cast aside what he's got in there. I think it is a mix. I will, though, take strong exception as I go through it with my staff to some of the specifics. I know I'll take strong exception to some of the generalities. I do not think there has been a collapse and utter failure on the part of EPA. I think

EPA has moved forward fairly aggressively. I know this committee has had numerous oversight hearings that I have participated in where we have talked about the specifics—how many permits we're issuing, how many enforcement actions we're taking. Last year we took more enforcement actions than in the history of this agency. Those are the kind of things that are not incorporated in that report that I think we would like to rebut.

Senator MITCHELL. I look forward to that. I hope you will do it as soon as you can reasonably do so. I know you have a lot of demands on your time.

Mr. THOMAS. I feel we can get it to you within a week, Senator. (See p. 202.)

Senator MITCHELL. Fine. Thank you very much, Mr. Thomas.

Senator CHAFEE. Senator Bentsen.

Senator BENTSEN. Thank you very much, Senator Chafee. Let me ask you, Mr. Thomas, the Washington Post story that we saw yesterday talks about the production in field offices and the consolidation of research laboratories. In that situation, have you discussed this proposal with the OMB?

Mr. THOMAS. I have not, Senator, but my staff has. Let me try and clear up what we are doing. In the budget process this year, the administration did discuss with many agencies an overall desire to review field services to determine the efficiency and effectiveness of those services, and to consolidate where consolidation was possible. With some agencies they specifically asked them to proceed to begin consolidation of field offices. With EPA, they specifically asked us to look at and conduct a study of our field lab services to determine whether consolidation into a smaller number of field locations was possible. Also, whether or not that would improve services and increase management effectiveness. We agreed to do that and have established a task group within the agency. Jim Barnes, my Deputy, is chairing that with field and headquarters representation. Over a period of the next several months, they will review our lab services in the agency and make a recommendation to me as to whether we feel consolidation of any of those would be the proper thing to do.

Senator BENTSEN. Let me make sure I understand you. Does that spill over into the regional offices—that consolidation?

Mr. THOMAS. Indirectly, in that some of those lab services and labs that we have are supportive labs to our regional offices. That part of our work is not associated with the article you saw that had to do with regional office consolidation. It is a separate effort totally related to our lab support. However, we have been asked to look into our regional offices as well. We have begun discussions with OMB as to exactly how we would take a look at that. We have not entered into any kind of formal agreement with OMB in a budget process that would suggest that we are going to consolidate 10 regional offices to 7.

Senator BENTSEN. Then you are at no point of having made any kind of decision as to how many or where?

Mr. THOMAS. In neither case, neither with our labs nor with our regions, no decisions have been made as to how consolidation would be done or if consolidation would be done.

Senator CHAFEE. I have to leave for a brief meeting now. I think we have a few more questions for you, Mr. Thomas, and, if I'm not back by the time Mr. Thomas has to leave, could you just proceed to Mr. Drayton, Senator Bentsen. Lee, if you could stay as long as you can here, perhaps I can just interrupt Mr. Drayton to ask you a couple of questions.

Senator BENTSEN. I assume that this does not come off my time and, now that I'm acting chairman, I can assure you that it does not.

As I understand your budget, you are talking about a 5-percent reduction in salary. Do you have the alternative of taking that from other accounts or expenses, or are we really talking about taking it out of salaries?

Mr. THOMAS. No, sir, that's a 5-percent reduction in employee salaries. That was incorporated in all agency budgets as an administration proposal, so it does assume that. There is a separate reduction in administrative expenses.

Senator BENTSEN. So, it has to be earmarked specifically?

Mr. THOMAS. The 5-percent reduction in salaries is that. The 10-percent reduction in administrative expenses has also been factored into our budget request. That comes out of such things as travel.

Senator BENTSEN. Is it anticipated that reduction comes about by reduction in number of employees or in actual reduction of salaries across the board?

Mr. THOMAS. The 5-percent reduction would be reduced by salaries across the board.

Senator BENTSEN. Each individual employee takes a reduction in pay?

Mr. THOMAS. That's right.

Senator BENTSEN. Good luck. In getting to this budget, you had changes right up to the time it was submitted as I understand it. As the acting administrator, at what point did you begin to actively participate in the negotiations with OMB?

Mr. THOMAS. The day that President Reagan asked me to take the job—that would have been right around the first of December. As a matter of fact, at that meeting I had a discussion of resource requirements for the agency.

Senator BENTSEN. In that process, did you appeal OMB's denial of the supplemental appropriation to fund the new Hazardous and Solid Waste Act amendments?

Mr. THOMAS. No, we did not formally appeal that, Senator. What we did was in our discussions with OMB, we agreed with the decision not to proceed with a supplemental request. Instead, we looked at a reprogramming request.

Senator BENTSEN. That's what you anticipate—that you will have a reprogramming in the year?

Mr. THOMAS. Yes, sir, in 1985—this year—a reprogramming request of about $25 million for RCRA. We did that after looking at the potential of a supplemental request being acted on in any kind of time frame that would be helpful to us as far as the immediate problems we had both with staff and dollar requirements. We made the determination that it would be far more timely to try to reprogram funds than it would be to think in terms of a supplemental request.

Senator BENTSEN. The current law provides that $44 million be contributed to the Hazardous Substance Response Trust Fund from General Treasury funds. The fiscal year 1986 budget calls for discontinuing this Federal contribution. What is the policy rationale behind that kind of decision?

Mr. THOMAS. Senator, it is twofold. It is reflective of what I anticipate will be in our proposal tomorrow for reauthorization of Superfund. That is we feel that funds for that program can be raised from taxes directly associated with the industries that are disposing of the waste as opposed to any use of general revenues. Additionally, we feel that in the context of overall use of Federal revenues this is a contribution we can make in this program to reducing our outlays. We feel we can raise those revenues from other than going to the general fund. We feel there is a programmatic rationale for it and a fiscal rationale for it.

Senator BENTSEN. The Hazardous and Solid Waste Amendments of 1984 require that EPA study the adequacy of those guidelines affecting subtitle D facilities with a view toward revising existing criteria by March 1988. What level of resources and personnel is allocated to this effort for the current year and in the budget request for fiscal year 1986?

Mr. THOMAS. If I could provide that for the record I would appreciate it. I have those figures and I can do that.

[The information follows:]

SUBTITLE D RESOURCE LEVELS

In 1985 the Agency is allocating two work years and $1.2 million in contract funds to study the adequacy of guidelines for Subtitle D facilities. In 1986 the Agency will allocate two work years and $3.0 million in contract funds to this effort.

Senator BENTSEN. Are any of the increased resources for hazardous waste grants to States in fiscal year 1986 available for closing open dumps or other subtitle D activities?

Mr. THOMAS. No, sir, they are not to my knowledge—not for subtitle D activities for fiscal year 1986.

Senator BENTSEN. I think my time has expired. Senator Lautenberg, I think you had some additional questions.

Senator LAUTENBERG. Thank you, Mr. Chairman. Let me get back to the discussion about the Bridgeport site for just a moment. When you say that you have approved $57 million for cleanup of that site, does that commit the funds?

Mr. THOMAS. Senator, we go through a process on a site where we end up with a record of decision, which is a formal process, which basically is this. The decisionmaker, which in this case is myself, formally approves the cleanup remedy. In the Bridgeport site, for instance, there's a lot of engineering work that goes into the development of that recommendation—community meetings, et cetera. There is an estimate as to how much that remedy would cost. There are several alternatives that are laid out and each one of them has cost options. The cost option associated with the Bridgeport remedy was $56 or $57 million. The specifics would come out as we actually bid the project. As the State goes and lets bids, that would be a segmented project. By that I mean, there will be surface work done; it includes alternative water supply hookups for the residents in the area; there's additional work going to be done relating to contaminated ground water. Each of those components will be done in segments and you will probably see that cleanup take place over a period of a couple of years. The commitment of the funds will be done as the State comes in and requests specific commitment for specific parts of that project. We have available the money we would anticipate using in fiscal year 1985. What we will do is factor into our planning the kind of funding request for Bridgeport as we factor in the 1986 budget and as we factor in 1987 just as the State would do when they look at their 10 percent, $5.5 million requirement. In its fiscal sense, it's not committed but in a planning sense, it is.

Senator LAUTENBERG. If the phasing goes as expected, then the Superfund will be paying its share of the cost of that, up to $57 million. We want to move ahead as quickly as we can. Unfortunately, New Jersey has an abundance of these sites. It is pretty obvious that with the almost 800 sites on the national priority list and the relatively slow progress in getting enough movement to satisfy us, the $5.5 billion is far too low over the period of time for your own program. We are going to have to take into account the assumptions and find a way to reestimate what we think is going to be the true cost of this. I think we're talking about something that is going to be much higher—perhaps as much as $10 billion—perhaps more, to fund the program. We will be working with your people and asking for information in terms of more specifics in how you plan the budget.

I wanted to ask you about the decision to close the 12-mile dumpsite. Mr. Ravan, I think, had supported the decision to close that site at the time, though not formally if I'm not mistaken. Suddenly, having gone from a sufficient amount of knowledge to be able to make that recommendation, we are now looking at the validity of that decision. Are you prepared to tell me today that on April 1 you are simply going to confirm what you said originally, or at least intimated, that the site should be closed?

Mr. THOMAS. It is proceeding as our normal rulemaking where we have made proposals. We take comments, in this case the comments have been voluminous. Generally, they are very technical. Our technical people review those comments and we insure before we make a final decision that we have been responsive to the kinds of comments we receive. That is the final stage of that process we're in now before we can make the final decision on that site.

Senator LAUTENBERG. Does that include comments from the White House or OMB?

Mr. THOMAS. I have no knowledge as to who has submitted comments in this case. If those comments are submitted, they are certainly a part of the record that is established for that regulation. It is open to legitimate parties that want to comment on any proposed rulemaking.

Senator LAUTENBERG. Does anybody know whether there have been any comments from the administration?

Mr. THOMAS. Do you have any knowledge? We don't have any knowledge.

Senator LAUTENBERG. You had indicated that EPA planned to monitor the 12- and 106-mile site if that does happen. How much money is the agency putting into this?

Mr. THOMAS. Specifically for those sites, $4 million is the total.

Mr. RAVAN. Senator, there is a $4 million increase in the program. Most of that $4 million I wouldn't want you to think is going to the two sites you covered. For the most part, that $4 million in EPA's budget is going to the incineration program. However, we do have enough money this year and next year to adequately monitor the closure of the 12-mile and the opening of 106-mile site. The Corps of Engineers and others who have participated at 12-mile site will also be conducting recovery studies at the 12-mile site.

Senator LAUTENBERG. The marine pollution budget is about 50 percent of the budget for 1986?

Mr. RAVAN. No, sir, the $4 million is my budget and Mr. Thomas' budget.

Senator LAUTENBERG. I thank you, Mr. Chairman. Thank you Mr. Ravan, Mr. Thomas.

Senator BENTSEN. Thank you very much, Mr. Thomas. You have heard the request of Senator Chafee and hopefully you can accommodate.

Mr. THOMAS. Senator, I will be here until 10:45. Thank you, sir.

Senator BENTSEN. That way you will get to hear the statement of Mr. Drayton. You may want to take the stand anyway after he finishes.

Mr. William Drayton, chairman of Environmental Safety. Mr. Drayton, if you would state your name and position and that of your associate for the record.

STATEMENT OF WILLIAM DRAYTON, CHAIRMAN, ENVIRONMENTAL SAFETY, ACCOMPANIED BY FRANCES A. ZWENIG, EXECUTIVE DIRECTOR, ENVIRONMENTAL SAFETY

Mr. DRAYTON. Thank you, Senator. I'm Bill Drayton, chairman of Environmental Safety and this is my colleague, Frances Zwenig, our executive director. Environmental Safety is an association of environmental management professionals who try to watch and report what's going on in the field, focusing especially on implementation and public health/toxic issues.

It is now almost 4 years since this committee asked us to first look at the proposed EPA budget cuts to try and indicate what might be the implications. In significant part, because of the committee's concern, the administration's original proposal to cut EPA by two-thirds in real purchasing power has been limited typically to 20 to 40 percent for the major protective programs EPA runs. For example, there have been reductions of 22 percent in air; 42 percent in water; 27 percent in the Toxic Substances Control Program. Here I'm comparing the 1986 budget before you now—the President's proposed 1986 budget—and the appropriated fiscal year 1981 budget.

The restraint that this committee has provided has been essential to preserving EPA as an institution. However, 4 years later, we now have overwhelming evidence that EPA is failing to get the job done. Cutting EPA in this fashion, in the face of the new toxic control workloads Congress has assigned it, has been a very serious mistake.

Between 1976 and 1980, the committee and the Congress wrote or amended seven basic EPA statutes to require the agency to control chemical hazards in the environment as well as conventional pollutants. This was the second great wave of public health law in American history, comparable to the 'sanitary revolution' launched in the last century to control biological contaminants in the environment.

After several years of necessary research, legal work, and institution building, these programs were generally ready for field implementation in the early 1980 period. Over the last 4 years, the agency's workload has consequently doubled. However, we did not provide EPA with the very substantial new resources it would have needed to implement these new responsibilities. Instead, in terms of real purchasing power, the proposed 1986 budget cuts EPA back to 1975 levels. That's before any of the new toxic laws were enacted.

The result has been an extraordinary failure to get the job done. To research, to screen chemicals, and to implement the law in the field. I want to add specifically that despite these odds, EPA and its staff is working hard and with considerable dedication; but we have dealt it quite unreasonable odds. We are now experiencing the consequences.

The administration's proposed 1986 budget would ensure that this failure continues. It would do so because, essentially, it is the same budget that produced these results over the last several years.

There are small, in fact generally sensible, rearrangements within the frame of this core fact, but they cannot affect EPA's failure.

What is the evidence that EPA has failed? That these fundamental public health laws are being flaunted; that ultimately the public is not being protected?

The figures I'm going to cite here and that are spelled out in my full testimony are a little hard to accept. I sympathize with Mr. Thomas 'reaction and probably with yours. Initially, we found them a bit incredible. We, too, asked ourselves: Could such a sweeping collapse possibly really have happened? Unfortunately the evidence is very strong. It comes from one Government study after another, each done independently and all supporting the same general conclusion. Any one or two studies one can quibble with; studies are inevitably flawed to some degree, but the whole array is compelling. This data is not environmental safety data. It is GAO, National Academy of Sciences, EPA, OTA, and even OMB data.

These studies reached their conclusion from three different cuts at the issue.

The first of these three different cuts at the problem are a series of measures of how much of the job is actually being done. This first cut basically points out that EPA's job in terms of tasks is not getting done. Typically, between 0 and 12 percent of the major measures of workload that should be being accomplished under the new toxic laws, have been done in the last 4 years. To give you two quick examples: In pesticides, 125 pesticides products, including some of the more important pesticides, out of 40,000 have been re-reviewed and reregistered in the last 4 years. How many more EDB's are waiting in the "in" box?

Under the Toxic Substances Control Act, there have been 4 substances regulated out of 60,000 existing chemicals. A further one-tenth of 1 percent of that 60,000 have had the companies responsible for them required to submit further information. This is very slow progress indeed—and I refer you to the testimony for many more examples.

The second cut is a series of measurements of compliance. Is industry continuing to comply with these laws? We used to have excellent voluntary compliance. Now we find a pattern in these studies of roughly 80 percent noncompliance. I will just cite one example quickly: In the water area, GAO did a survey of 531 major sources of water pollution and found that 82 percent were not complying with the standards—many of them grossly and continuously. That is compared to the currently applicable standards as defined in their permits.

Senator **Bentsen**. If it is 82 percent now, what was it?

Mr. **Drayton**. Let me give you an example from the State of Connecticut where a good baseline analysis was done. In the air area, there were some 12,000 sources of air pollution. In the first 5 years of environmental regulation, some 300 administrative orders had to be issued, and only 20 to 30 cases were considered enforcement problems. That's a level of voluntary compliance that's very different from 82 percent noncompliance. The water area in Connecticut was somewhat similar but the delays in meeting administrative orders once those orders were issued were significantly greater than in the air area because of the longer prior history of that program with a less strong enforcement pattern.

I should say that this is an uneven pattern. We all know the pesticides program has had a bad field compliance history from its beginning, so I don't want to say it was all 98 percent voluntary compliance prior. It is clear, however, that program can't function without a very high level of voluntary compliance. That's the core of any regulatory program. Just going from 98 percent to 96 percent gives you twice as many people out of compliance; which alone doubles the workload for the field staff. And, a lot of other people start to drag their feet, further increasing workload. Even that small change in voluntary compliance has a dramatic impact on the workload and, by reverberation of that, on the credibility of the State agencies. Even if you don't accept the 80-percent figure and say it's 50 or even 30 percent, no regulatory program can function effectively with even that level of loss of voluntary compliance.

I would argue that this is one of the tragedies of the last several years. We have put in place these major new toxic statutes—the most important public health measures in this country's history in this century—and just as those laws were coming to the point of implementation, we have a program to cut back and get rid of regulation which coincided with this major public health wave and demolished it.

Hundreds of thousands of people across this country have learned in the last several years that the hazardous waste laws are not to be obeyed. They've learned that their competitors are not complying and, therefore, they can't afford to comply. Business has lost confidence in the Government's doing its job to make sure that everyone is doing their fair share. I don't think business doesn't want to implement these laws. But if you're one of six asphalt factories in Connecticut, and you know the other five don't have bag houses on and are not replacing them, you aren't going to be the only person to put a bag house on and put yourself at a competitive disadvantage.

Senator MITCHELL. Mr. Drayton, do I understand what you are saying: Since the amount of resources available to the EPA today are at the same level they were in the midseventies and since all of the toxic control programs were enacted and scheduled to be implemented subsequent to the midseventies that effectively we have provided no funds to deal with this problem? Therefore this problem has not been dealt with. Is that a fair summary of what your message is?

Mr. DRAYTON. Exactly. That has all sorts of consequences. Once you've lost voluntary compliance, you're in a much worse situation than you were when you started. Once you dismantle the laboratory capacities around the country and you don't have graduate students studying these problems anymore, it will take years and years to build that up again.

Senator BENTSEN. I think you make a very legitimate point that concerns us very much. Your graph presentation is pretty shocking. I think to say that business wants to do these things but doesn't if they don't expect the discipline for the enforcement. They are just going to let it slide. I might have one question about one of your charts—the question of business' pollution control investments. Would not you have anticipated that that goes down once people put in a lot of pollution control equipment?

Mr. DRAYTON. Let me just quickly summarize that point for those who haven't done their homework as you clearly have. I think it is probably the most telling single point and it is a completely independent cut at this failure of implementation. These are Department of Commerce figures and what they show is that—this chart is on page 5, exhibit 4—during the seventies in real dollar terms there was almost steady expenditure of almost $5 billion dollars a year on pollution abatement. That is corrected for inflation in 1972 dollars. Business had decided to do the job and was already in a replacement cycle. This equipment doesn't last forever; it gets very rough treatment and dies in 5 years and has to be replaced. The reason we had that steady state in the seventies was that we were already on a replacement cycle for the control equipment that was put in in the very early seventies.

What should have happened in the early eighties with all the new toxic requirements, was that we should have gone up to a new plateau. Instead, from the 1973 to 1980 steady plateau, we plunged down 38 percent to 1984. That means that we are not maintaining our conventional controls and we are not taking these toxic laws seriously. To the degree that we are making new investments to deal with toxics, then the lack of maintenance in the conventional area is even worse than 40 percent.

That is a set of figures entirely independent of the first two I've been citing. The series of studies that show 80 percent noncompliance and the series of EPA reports that show only miniscule proportions of the workload that should be done to implement these laws is being done; three independent cuts at the same problem.

Senator Bentsen asked the most basic, common question: Isn't this just a matter that we've completed the job? We should have—just as you have a fleet of automobiles or a bunch of production equipment in a factory—been replacing it as it depreciates. It wears out. The base should have been steady, and the new toxic controls it should have made it go up. But it's gone down.

Senator LAUTENBERG. That's not entirely a fair conclusion considering the technological and material changes. I'm not defending business, in this case, but I think you're making the wrong statistical presentation. I'm more impressed with the fact that GAO, EPA, and the others confirm a very high level of noncompliance.

Mr. DRAYTON. Clearly, technology can change this, but this has not been an area of rapid technological change. I'm sure you've listened at length to some of your business constituents telling you how EPA regulation is driving them up the cost curve.

Senator CHAFEE. If I might just interrupt here—Mr. Russell, would you please take a message back to Mr. Thomas? I'm sorry he had to leave before I got back. I have a question concerning Westway.

In the testimony yesterday and in the remarks that were made in the decision memo that Ms. Cooper had, she says, "We now have spent over 10 years reviewing the potential effects of Westway. This is too long." She stressed a need for any decision over the need to insure adequate protection for the environment. That is one way of approaching it.

As far as acid rain goes, the decision is, "We've got to keep research going here. True, it's been going seven years, but we've got to have more research." Indeed, they've asked for $22 million in additional research funds. To me, it is ironic that they approach two things in exactly the opposite way. On one hand they say to forget the environment and make a decision, and, on the other, they say to continue to research.

The second message I would like to have you take back is that I personally am at a great loss to understand the decision in Westway. After the 7-year opposition of EPA, all of a sudden the opposition was withdrawn. I really want to know what happened. Please have Mr. Thomas supply me with the materials they used in this decision. I would also like to have them come up to my office and chat about this next week.

Senator MITCHELL. It would be a great help to this committee if you would provide us with a written history of your experience in this field, Mr. Drayton, as well as a description of the organization which you are here representing. [See pp. 197 and 198.] Second, I would like to ask you to address orally at this time or in writing what you suggest as to what we should do. Your statement is a very forceful, striking description of the problem, but it ends with a description of the problem and says this committee ought to deal with it. Assuming we are persuaded by your approach, assuming that Mr. Thomas' rebuttal is not persuasive, and we decide we should do something, would you please indicate to us what you think we ought to do with as high a degree of specificity as you can. Mr. Drayton. I'll do that. I have a few thoughts here. I said earlier that there were three basic cuts that a whole series of Government studies have done that demonstrate that EPA isn't being able to accomplish the workload, that there's now a pattern of 80 percent noncompliance in industry, and that there's been a 40-percent decline in business investment in pollution abatement just when it should have gone up because of all of the new toxic requirements.

The RCRA Program is a good example. First of all, I would say there is a failure of research. The recent OTA study highlighted the fact that EPA has not done work on the development of alternative control technologies for hazardous waste. This committee has had representatives of the pollution control industry testify before it that they can't do the precommercialization research in this field because there is too much uncertainty. We know that industry is not filling that void. This is a case where we are saving millions and wasting billions.

Second, and this offends me as a management consultant particularly, we have major waste streams. We barely know where they are coming from, and we certainly haven't done a systematic job of determing and choosing among possible disposal techniques available in light of the best information available; what is acceptable and what is not; what should we experiment with. This committee and the Congress is asked to make multibillion dollar decisions to ban, for example, deep-well injection, or ban ocean disposal. Maybe there are some uses of deep-well injections in some circumstances for some materials where that makes more sense than the others options. No business would go about making these massive decisions without this very basic work. We're talking about probably a $10 million program for a couple of years to do this. These are just two examples of the sort of basic strategic research program that is not getting done. EPA research is in shock, and we are all losing as a result.

Second, there's been a failure to implement the law. The highest RCRA priority the agency has set for itself has been investigating and either closing down or permitting the active treatment facilities. The agency says there are about 5,000 of the 70,000 firms that are supposed to be being regulated under old RCRA that fit that category. After 4 years, 7 percent, some 350, of those 5,000 facilities have actually been inspected, closed or permitted. That is 1½ percent per year, think what that means if you happen to have one of these facilities near you. Your assumption probably is that the Government is sensitive to these issues and they're not going to allow a major active hazardous waste facility in your neighborhood without at least doing this step.

Until this work is done, the rest of the act doesn't make a whole lot of sense because it is based on the idea that you are going to force the waste to go to safe, permitted sites. How much longer are we willing to wait for the other 93 percent to be inspected and permitted?

If that is EPA's record with its, highest priority, what is happening to the other 65,000 firms that are supposed to be being regulated under old RCRA? Perhaps the States are doing it. A survey of the State hazardous waste administrators last spring indicated that they were 70 percent understaffed to implement old RCRA.

The net result of all this is that we have 80 percent noncompliance rates. GAO did a study and then EPA followed up with another study, and they both show that roughly 80 percent of the active top priority hazardous waste facilities in this country are not properly testing to see if they are actively polluting ground water. This is just one of a number of minimum safeguards being violated.

What about this budget increase that the administrator was telling us about? Does that solve the problem? It clearly does not. The increase is compared to a cut 1981 level. In 1981 we had a preparatory program—not a field implementation program—that was just getting ready for field implementation. Between then and last year, that program was cut about 16 percent, corrected for inflation. We've increased it compared to 1985—an extra 300 people and resources—and doing so is clearly the right priority. But that's off a base that provides no new money for the old RCRA. That's off a base of in effect, a reduced planning staff. I am just trying to give you a sense of the order of magnitude. Using the workload analysis that EPA developed with OMB participation, when the old RCRA bill was put through, we said we would need 2,400 Federal employees to implement that program assuming maximum State pick-up. The new increased budget provides 1,300 people to implement both old and new RCRA. In the context of States, they are telling us they are 70 percent understaffed to implement the old RCRA. The new RCRA increases the number of firms subject to regulation from 70,000 to 240,000, adds 2 million underground storage tanks many of which may be leaking and has more rigorous and complex requirements. There is an increase but it is misleading. Comparing the workload to the resources, the situation is worse now than it was before. The odds against the agency being able to implement the RCRA bill are worse. This RCRA example is not an exception.

I just want to flag two other areas of special concern. In the area of research, under the administration's new proposal the research program at EPA would have just a bit more purchasing power than it did when the agency was starting its research program in 1972 and far less than in the period 1975-81. The damage here is so extreme that last spring the chairmen of six of the Nation's largest chemical companies testified before the Appropriations Committee in favor of a more than $100 million restoration for EPA research. I attended a meeting where they were looking at this and their reaction was that if their research programs had been subjected to the sort of cuts that EPA's research program would be, that they would not have a research program left. That's what led them to come before the Congress and argue for this increase. They proposed a $101 million increase in the EPA research budget. If one looks at the new toxics workload added on top of what EPA research was supposed to be doing, the gap becomes even greater.

We believe that the real need is a research budget of over $600 million budget to get back to full funding of only the continuing programs for 1981, plus a list of specific high priority research targets that we list in the testimony.

Second the history of the 1950's and 1960's gives us some idea of what is going to happen to water quality if we don't have a Federal

Waste Water Treatment Grant Program. I would just go back to the needs surveys of Presidents Ford and Carter and that done 2 years ago by the EPA.—all in excess of $100 billion—and ask the question: Who is going to do it?

Senator CHAFEE. Do you have a total figure for everything you are asking for? What would that come to for the agency?

Mr. DRAYTON. We would estimate probably on the order of $1.7 to $1.9 billion would be the right range for the operating budget this year. That's largely a function of trying to calculate how much the States and the independent research capacity in the country can absorb to get going in an efficient manner on some of these tasks.

Senator CHAFEE. They are at $1.4 and you say $1.7—- then you've got increased amounts for the Superfund. How much are you suggesting there?

Mr. DRAYTON. May I come back to you on that? I am having two numbers running through my head at once and I want to make sure I've got it right. The operating program is the area which I think is the most urgent because it drives the whole private expenditure in the country. You're talking about impacts of $50 billion that we're not having because we're not investing the several hundred million dollars that are necessary here.

When I struggled with budgets at EPA, my OMB friends taught me several very critical lessons. None was more important than the axiom that budgets are won and lost by what they call "expectations management." Once the discussion shifts to program specifics, little of importance really can be changed.

Maintaining the acute imbalance between a sharply increased workload and a deeply cut EPA that has prevailed for the last several years, is not "doing well". If this country's environmental laws are to be implemented, the framework of discussion will first have to be put back into focus. It is almost irrelevant to say that a program has been cut or increased relative to last year, especially when you are dealing with major changes in the nature of the underlying task. The useful and honest question, instead, should be: Does it have the resources needed to do the job? This committee is uniquely positioned to lead the debate into this practical implementation oriented framework, and has the necessary substantive knowledge, unity, and leadership role.

Let me quickly list a sample of some of the specific steps the committee might want to consider. First, develop its own staff expertise on workload analysis and the institutional requirements for implementation. Second, supplement this capacity in the short term through GAO and, in the longer term, by persuading the Congressional Budget Office that it must go beyond its current chiefly incremental budget focus to develop true program workload capacity. Third, require EPA to provide regular quarterly implementation reports including workload analyses meeting your and CBO's standards. Fourth, hold OMB's feet to the same performance workload fire and require it to submit regular workload analyses; and, require it to analyze comparative workloads across agencies at least for comparable tasks. In 1980 at EPA, we finally got some such comparative results. It shows consistently, before all the cuts and all the new toxic workloads, that the workload per person at

EPA was commonly many times that of other agencies where you could take the same workload measure. It is true that analyzing workload requires hard, careful work. I make this point because EPA says you can't rely on workload analyses. It is very embarassing for them at the moment. As a professional management consultant, I can certify what common sense tells us is possible. No business would last long that did not budget to its real needs. Would anyone here open a factory without first doing such an analysis?

Another major area that I would suggest for the committee would be the encouragement of authorized experimentation of new approaches to implementation. The unraveling of the last several years makes it impossible to go back to 1980 methods. We have lost voluntary compliance now. For example, might we follow the very successful, and very, decentralist model from the field of financial regulation of employing mandatory certified public toxic auditors to insure field compliance of at least the most urgent requirements?

If anyone can be the voice of conscience and realism that will induce us to face up to EPA's failure and to its causes and implications, we believe it will have to be, the chief author of these laws—this committee. If anyone can bridge the divisions that stand in the way of action once we have faced the issue, it is this uniquely collegial committee. If Environmental Safety can be of any help now or later, Frances and I are anxious to do whatever we can to help. Thank you.

Senator MITCHELL. I have no further questions. When we receive Mr. Thomas' rebuttal to your statement, a copy will be made available to you and we will be happy to receive your written comments on it. Then we will have some basis for weighing these arguments. From my standpoint, your statement has been very forceful and very alarming. We will certainly take it into account.

Mr. Drayton, Thank you.

Senator LAUTENBERG. Could you summarize your experience and background for the junior member of this committee?

Mr. DRAYTON. I was a management consultant with McKensey and Co. for 5 years and am of counsel with them now. I taught at Stanford Law School in the regulatory and management area, and at the Kennedy School of Government. I was Assistant Administrator at EPA, responsible for the policy, budget and mangement, and what is now the inspector general function.

Senator LAUTENBERG. When was that?

Mr. DRAYTON. That was 1977 to January 20, 1981.

Senator LAUTENBERG. In response to Senator Chafee's question, did you not, along the way, estimate for fiscal year 1986 and for a 5-year cycle we are going to be targeting on, what it might take to adequately take care of the programs that are under discussion?

Mr. DRAYTON. If you like I can provide a table that does that. I can give you a quick summary now.

The operating budget we are estimating will go to $1.9 billion the first year, mainly constrained by the significant work of rebuilding.

Senator LAUTENBERG. How does that compare to Mr. Thomas' operating section?

Mr. DRAYTON. $1.3 billion.

Senator LAUTENBERG. So, $1.3 billion and that assumes about $3.4 billion of capital, because the whole budget request for 1986 is $4.7 billion. Am I correct?

Mr. DRAYTON. Yes. The Superfund if $900 million and the administration's proposal in construction grants is $2.4 billion, so that's $3.3 billion.

Senator LAUTENBERG. So, you have roughly a $600 million higher recommendation in the operating side.

Mr. DRAYTON. I would point out that most of that really compensates for inflation. You have to get to $1.7 billion to get back to where EPA was in 1981. So, only $200 million of that is really incremental.

Senator LAUTENBERG. Do you have a like recommendation in the capital side for the Superfund?

Mr. DRAYTON. We had three elements in our capital proposal and we haven't mentioned the third element at all. It is an acid rain trust fund as a possible way of dealing with the acid rain issue. That's a policy question. Waste water treatment grants we had at somewhere between $2.6 and $4 billion. The range is here because there are policy choices involved in terms of rate of buildup. We think the work is certainly there and the capacity is there. We could go back to $4 billion in the first year. For Superfund, we had said a range of $700 million absolute minimum, to over $2 billion.

Senator LAUTENBERG. In addition to the proposals for fiscal year 1986 you are saying, or for the 5-year period?

Mr. DRAYTON. No, that's just for that 1-year total amount. Let me just say $700 million to $2 billion total.

Senator LAUTENBERG. The budget proposal is $900 million for Superfund for fiscal year 1986. Am I correct?

Mr. DRAYTON. The House bill was $2 billion a year. What we are assuming here is that we will be having a startup problem in the first year and would build up in the subsequent years. We are not saying it is a straight amount per year. The reason for the range is there is a policy choice and we think the operating budget is by far the most important matter. If we were forced to make a choice, we would have a slower rate of restoration in the capital programs, with the highest priority in the operating budget.

Senator LAUTENBERG. For the purpose of discussion, I'd like to leave the designation of capital as something apart from Superfund. I think of capital as sewage grants, and water treatment facilities and that sort of thing.

I just want to try and pin you down on the Superfund. We are looking at a 5-year time cycle. It has been proposed to shoot for $5.5 billion over a 5-year period, and I wonder whether you have a projection to deal with the task over 5-years as you see it?

Mr. DRAYTON. Assuming current legislation, we had a buildup which would go in 1987–88 to $3.4 billion. I don't have the outyears beyond that. The key assumption is management capacity and the role of the States.

Senator LAUTENBERG. Have you examined the statements made by EPA about the ability to absorb funding?

Mr. DRAYTON. I have certainly read a number of them.

Senator **Lautenberg**. If my memory serves me, it has been suggested somewhere around $1,100 million is about the level that is reasonably digestible.

Mr. **Drayton**. I think that depends very much on what year you are talking about. If you are talking about the next 6-months that is more credible than if you are talking a year and a half from now. This country has launched and managed much more complicated engineering projects. This program was designed as an emergency program and it was not supposed to run on the 10-year operating cycle of the Construction Grants Program. If you have one of these in the backyard, the theory is that something happens quickly. As you know, the recent OTA report is also quite critical of the management of the program.

Senator **Lautenberg**. So, you don't buy the pacing argument?

Mr. **Drayton**. Within limits.

Senator **Lautenberg**. This is a complex organization and it does take time to put everything into place. There is an abundance of qualified consultants. I think the States, given the opportunity of knowing they are going to recover their investments, can move rather expeditiously here. I come out of the technology and business field, and I am not satisfied that we have all the information in front of us.

I won't hold the hearing open any longer. There are some questions I want to have submitted for Senators Burdick and Moynihan. I thank you, Mr. Drayton for a very interesting and valuable testimony.

Mr. **Drayton**. You're welcome, Senator.

Senator **Lautenberg**. The hearing is concluded.

[Whereupon, at 11:25 a.m., the committee adjourned.]

[Mr. Drayton's written statement, information requested by Senator Mitchell, EPA's responses to Mr. Drayton's statement, and Mr. Drayton's response to the EPA submission follow:]

STATEMENT OF

WILLIAM DRAYTON,
CHAIRMAN, ENVIRONMENTAL SAFETY

BEFORE THE
COMMITTEE ON THE ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

HEARING ON THE PROPOSED FY 1986
BUDGET FOR THE ENVIRONMENTAL PROTECTION AGENCY

FEBRUARY 20, 1985

Mr. Chairman and Members of the Committee,

Thank you for the opportunity to present testimony on the administration's FY 1986 budget request for the Environmental Protection Agency (EPA). My name is William Drayton and I am chair of Environmental Safety, a nonprofit, educational organization devoted to evaluating the implementation of the nation's laws to control toxics. We very much appreciate your independent review of EPA's budget at these hearings: it is the key to whether or not these laws are implemented.

Put briefly, EPA's performance over the last several years provides overwhelming evidence that we have made a serious mistake. We allowed the many new laws this Committee and the Congress passed to protect the public against toxics to take effect without providing the very substantial new resources that would have been necessary to implement them. Instead we have, in terms of real purchasing power, cut EPA back from its 1980 and 1981 levels (before these new laws were to be implemented) to 1975 levels (before they were enacted). The result has been an extraordinary failure to get the job done — a failure to research, to screen chemicals, and to implement the law in the field.

The Administration's new proposed FY 1986 budget would ensure that this failure continues. It would do so because it is, essentially, the same budget that has produced these results over the last several years. There are small, often sensible adjustments within the frame of this core fact, but they cannot affect EPA's failure.

In the 1970s, the United States Congress responded to an ever-growing awareness of new chemical contaminants that had become a reality affecting every citizen's life. The seven statutes which it passed to deal with this threat between 1976 and 1980 (See Exhibit I) constitute this country's second

EXHIBIT I

EPA'S WORKLOAD ROUGHLY DOUBLED BY THE EARLY 1980s

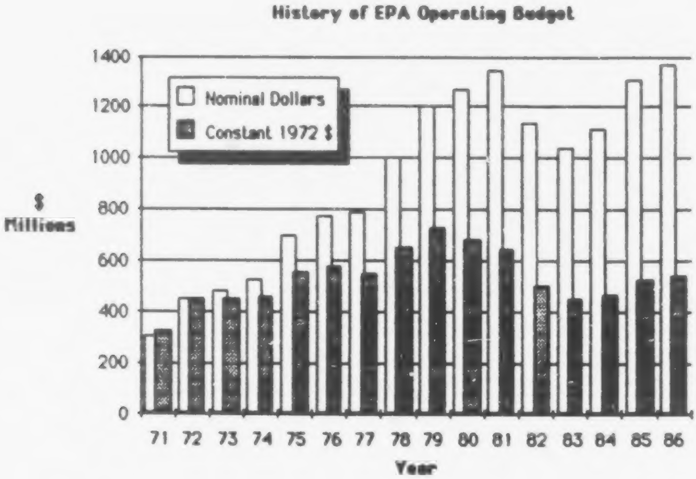
1. First "Conventional" Wave	Year Passed
Clean Water Act	1970
Clean Air Act	1970
Solid Waste Disposal Act	1972
Federal Insecticide, Fungicide, and Rodenticide Act	1972
Noise Control Act	1972, 1978
Marine Protection Research and Sanctuaries Act	1972
Water Pollution Control Act Amendments	1972

2. New Toxics Wave	Year Passed
Resource Conservation and Recovery Act (Hazardous Wastes)	1976
Toxic Substances Control Act	1976
Clean Air Act Amendments	1977
Clean Water Act Amendments	1977
Safe Drinking Water Act Amendments	1977
Federal Insecticide, Fungicide, and Rodenticide Act	1978
CERCLA (Superfund)	1980

major wave of public health laws —comparable to the "sanitary revolution" launched in the last century to deal with biological contaminants in the environment. These laws redefined EPA's job and in effect doubled EPA's workload.

EXHIBIT II

THE 1986 OPERATING BUDGET SHOULD BE $1.688 BILLION IF EPA WERE TO HAVE THE SAME REAL (INFLATION-ADJUSTED) CAPACITY IT DID IN FY 1981



The proposed budget for 1986 puts the Agency about where it was in 1975 -- before most of the legislation aimed at toxic pollution was passed. Workload has **at least doubled** since then.

After several years of laying essential research, legal and administrative foundations, these new responsibilities were ready for field implementation in the early 1980s. That was when EPA's workload doubled.

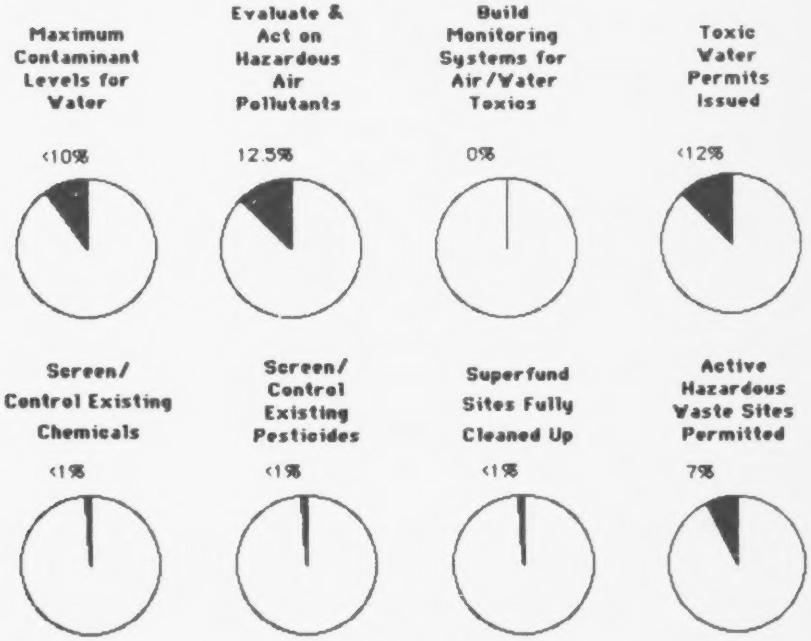
What you have before you then is a budget request to maintain the agency at pre-toxics wave legislation levels. Additionally, just last year Congress enacted an expanded, stronger RCRA -- further increasing the workload. (I will deal with the RCRA program in more detail later on in my testimony.)

As those who follow EPA closely know all too well, EPA has consequently not been able to do its job in the 1980s. It has typically managed only between 1 and 12 percent of its toxics control workload since 1981. (See Exhibit III).

EXHIBIT III

THE JOB IS NOT GETTING DONE: TOXIC SAFEGUARDS REMAIN LARGELY UNIMPLEMENTED

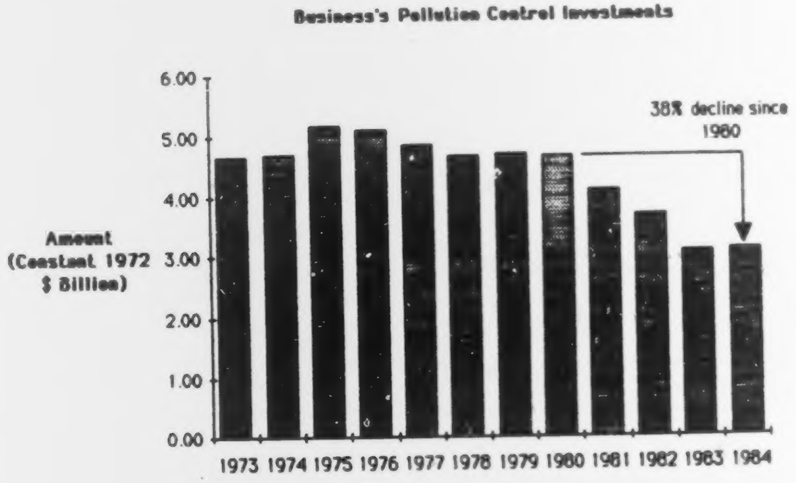
(Percent of Job Done Since 1980)



Consequently, compliance has collapsed. The General Accounting Office reports 82 percent noncompliance with water quality standards by major sources of water pollution. Other GAO, EPA, and OTA studies show similar noncompliance rates in other areas. The Commerce Department reports a 38% decline in business investment in pollution abatement compared to the steady level of the 1970s — just when it should have increased if business were putting in place the new toxics controls required in the early 1980s. (See Exhibit IV).

EXHIBIT IV

BUSINESS HAS CUT BACK ITS INVESTMENTS FOR POLLUTION CONTROL



NOTE: Steady level 1973-80: Business settled into a steady replacement cycle.

1984: A capital investment boom year. Pollution investment as a % of total investment continues to decline.

SOURCE: U.S. DEPT. OF COMMERCE, Survey of Current Business, May, 1984

Two Conclusions:

1. **Investments built up in the 1970s for conventional pollutants are being run down.**

2. **The new toxics laws are not being implemented.**

The 1986 budget proposal preserves the deep cuts of the last several years. The key question to ask the Administration is: "How will this budget allow you to do the job that is not now being done?" Here are a few examples of the current failure:

* The hazardous waste law was ready for field implementation in January, 1981. EPA put as its highest priority the inspection and definition of safe operating permits to active hazardous waste facilities. In the last four years, EPA has inspected and permitted only 348 out of 4898 facilities now on their list. EPA admits that its monitoring of even these sites is failing badly and that toxic substances could well be leaking into underground water supplies. GAO reports that 78 percent of the others are violating minimum interim safeguards.

* The 1984 reauthorization of the Hazardous Waste Law adds enormous new responsibilities to EPA's workload. In addition to the 70,000 firms regulated under the old law, EPA now must regulate 170,000 small quantity generators and up to 2 million underground storage tanks as well as meeting new statutory deadlines and tougher standards for permitting that at least double the workload. A 1984 survey of its members by the Association of State and Territorial Solid Waste Management Officials found the states already 70 percent short of the staff they would need to meet the limited requirements of the old law.

* Eight years after the Toxic Substances Control Act (TSCA) passed, EPA has regulated only five of the 60,000 chemicals in commerce. By mid-1984, it had (under court pressure) asked for further information on only 1/10 of 1 percent of the remaining substances.

* EPA requested additional information on only 3 to 6 percent of the more than 3000 new chemicals submitted to it over the last three years for pre-production safety screening. Fifty percent of the submissions contained no toxicity data whatever and eighty percent had no chronic toxicity (e.g., birth defects, cancer) risk information.

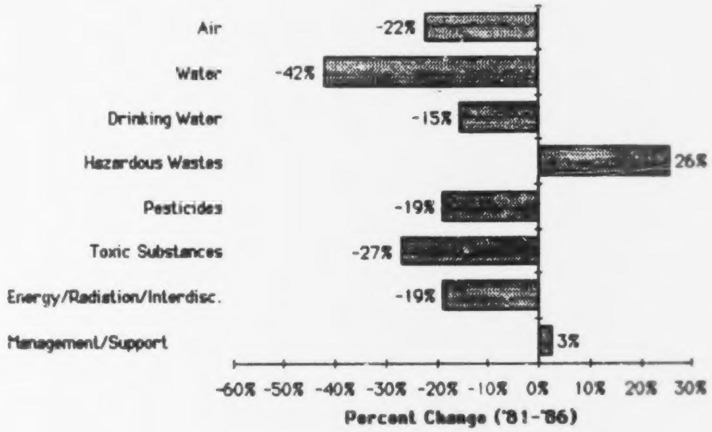
* EPA has reregistered only 125 (relatively important) of the 40,000 existing pesticide products. The National Academy of Sciences reported in 1984 that we do not have adequate information even to conduct health hazard assessments on 90 percent of these pesticides. How many more EDBs (ethylene dibromide, an insecticide that contaminated grains) lurk out there? Must we have our own Bhopal before we find out what final and intermediate chemicals are in that unattended in-box?

* EPA established no new final drinking water standards in the early 1980s. Almost all the 22 existing standards are carry-overs that do not reflect the new toxics knowledge now available. Thus, for example, there is no standard for such well known risks as EDB and benzene. The Office of Technology Assessment recently estimated that there are 200 such substances requiring attention in groundwater alone. Until standards are set, communities are not required to test their drinking water for these substances.

The following table illustrates graphically where the cuts have been felt: (See Exhibit V).

EXHIBIT V

EPA's KEY PROTECTIVE PROGRAMS HAVE TYPICALLY BEEN CUT 20 TO 40 PERCENT



The cuts have been even more harmful than the overall figures suggest. They've been focused on the protective programs.

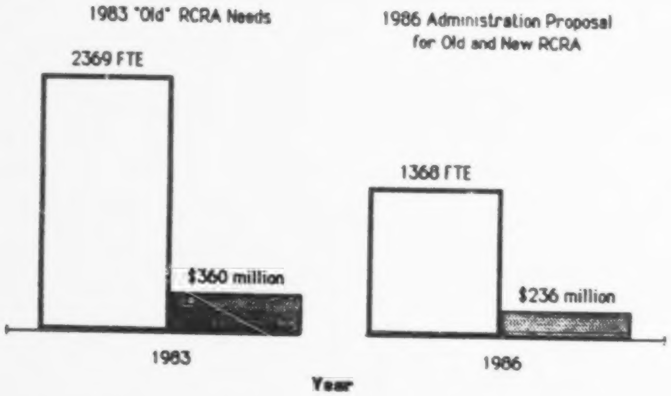
The counter-trend increase in the table shown for the hazardous waste program, alas, is not very meaningful. The base is 1981's very small pre-implementation planning program. When the program became operational in 1981, even that preparatory program was cut. In other words, the relatively modest "old" (pre-1984) RCRA law was never funded. The Agency is now trying to deal with the massive and urgent responsibility of beginning to implement both old and new RCRA -- to its credit. It has been given a token dab of resources by OMB and has scraped a little more together through internal reprogramming. But these resources are significant only when compared to a tiny planning program base -- and certainly not when stacked up against RCRA's 240,000 regulatee workload.

The President's only significant program increase at EPA is for RCRA, but it leaves the program even more hopelessly under-resourced relative to workload than it has been for the last four years, given the newly expended RCRA law. Though far better than new cuts, this budget virtually assures continuing program failure. (See Exhibit VI).

EXHIBIT VI

RCRA HAZARDOUS WASTE PROGRAM INCREASES ARE INADEQUATE...

AT THE FEDERAL LEVEL:



SOURCE: EPA Workload Analysis (Later year requirements assumed to be greater than this "ramp up" year. This analysis also assumes maximum state pickup, which has not occurred.)

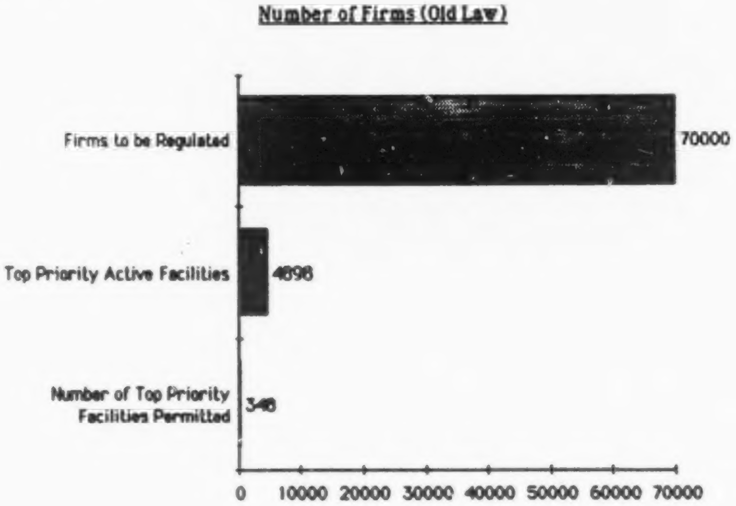
AND AT THE STATE LEVEL AS WELL:

State Understaffing "Old" RCRA -- (Survey of state RCRA officials, 1984)	**-70 percent**
State Grant Increases to do old and new RCRA	**+13.5 percent**

With the pre-implementation EPA resources cut and the states 70 percent understaffed, only 1-1/2 percent of even the highest priority single implementation task (the inspection and closure or permitting of active facilities) has been accomplished on average over the last four years. And 316 of the 348 facilities that have been handled are the relatively easy to permit Storage and Treatment Facilities; only 18 Incinerating Facilities and 14 Disposal Facilities have permits. If that's all EPA has been able to do with the 5,000 firms receiving its priority attention, just how little has been done with the other 65,000 supposedly covered by "old" RCRA? And what is the likelihood that the proposed 300 new staffers could correct this failure and deal with 170,000 additional firms just brought under the statute--and apply tighter, more complex standards as well? (See Exhibit VII).

EXHIBIT VII

EPA HAS BEEN UNABLE TO IMPLEMENT EVEN THE OLD. LIMITED HAZARDOUS WASTE LAW



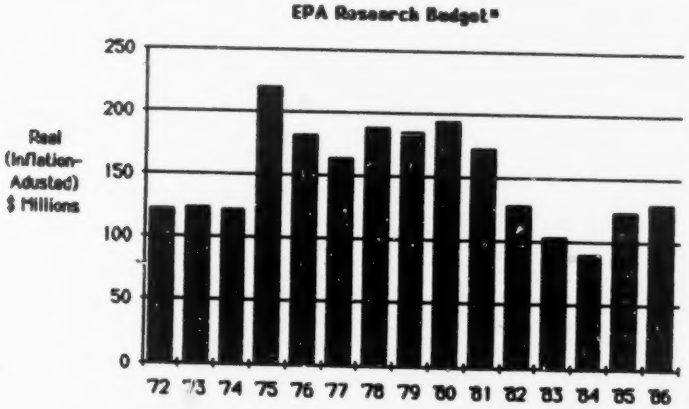
Even the increases in RCRA, inadequate as they are, come at the expense of other protective programs. A major portion of the $22 to $28 million proposed reprogramming of funds from FY85 draws from state compliance grant funds. As you know, the actual implementation of most of the programs comes at the state level. The Congress added $35 million to state grants in the FY85 appropriation, $16.5 million of which was meant to be used by EPA for new competitive grants to improve compliance and enforcement. The combination of this new budget, with only a slight increase for state air, water and hazardous waste programs, with the FY85 reprogramming amounts to real problems for the states — which are still held to meeting deadlines.

RESEARCH

EPA's research program is operating with less purchasing power than it had starting up in 1972 (See Exhibit VIII).

EXHIBIT VIII

EPA's RESEARCH PROGRAM NOW HAS LESS PURCHASING POWER THAN WHEN IT STARTED IN 1972.

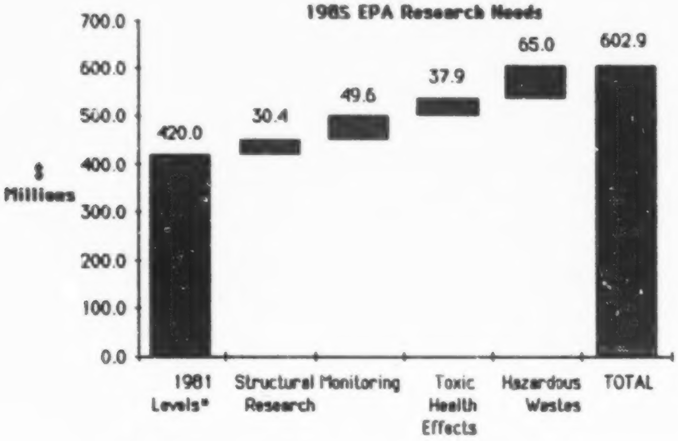


* Chart is expressed in constant 1972 dollars. The 1985 partial restoration was the result of intervention in the Congress by chairmen of six major chemical companies.

EPA's research program has been unable either to maintain its traditional work, or to help guide the nation's response to the problem of environmental toxics. The situation is so stark that last year the Chairmen of six of the nation's major chemical companies came to Congress to testify that EPA's research budget needs more than a $100 million restoration right away. Far more than that is neccesary. (See Exhibits IX-X.)

EXHIBIT IX

EPA's 1985 RESEARCH BUDGET SHOULD HAVE BEEN $595 MILLION (NOT $193 MILLION)



* 1981 Levels are Adjusted for inflation; programs that have been completed are subtracted out (e.g., Effluent Guidelines, Energy)

Launching the nation's effort to protect the public against environmental toxics in our current state of ignorance will cost billions in increased health costs and misdirected safeguards. Here are a few of the most urgent needs still left unmet.

EXHIBIT X
MISSED RESEARCH OPPORTUNITIES

Structural Research	Incremental Cost ($ millions)
• Systematic Comparative Evaluation of Final Disposal Options (Air, Oceans, Land, Deep Well, etc.) for Major Waste Streams	11.5
• Synergistic Effects	2.0
• Total Ecosystem Balance	1.8
• Indoor Pollution	15.0
• Groundwater (Central Leadership Only)	0.1
Monitoring (Does not include added requirements for agency MIS and program office staff)	
• Conventional Air and Water (States and ORD Only -- Restoration of $14.2 million)	14.2
• Toxics Monitoring	
-- Air metals	5.3
-- Air organics (60-150 sites)	15.0 - 37.0
-- Water monitoring	13.0
device development	5.0
-- Groundwater	7.0 - 12.0
-- Pesticides Rural and Urban Impact	2.0
-- Regional labs	2.0
Toxic Health Effects	
• Develop quick, economical screening and long term tests for all major effects (Behavioral, genetic, liver, etc. as well as cancer)	13.0
• Develop applied risk assessment techniques by analyzing 100 highest risk substances in 5 years	18.2
• Ecological effects (Water quality criteria and groundwater transport and fate)	6.7
• Engineering	n.a.
Hazardous Wastes	
• Map the problem (Support Program Office)	2.0
• Monitoring	5.0
• Ecological Effects and Transport and Fate	3.0
• Engineering	
A. Evaluate existing treatment/disposal	21.0 - 27.0
B. Development of new techniques	
-- EPA	6.0
-- Low interest loans to private R&D partnerships, etc. (pre-commercialization)	25.0-30.0
C. Changes in Waste Production Processes (and alternative regulatory incentives)	?
• Hazard ranking	3.0
	65.0

The needs summarized above by no means include all the important research not provided for in the President's budget. This is only an indicative sampling in four especially critical, under-funded areas.

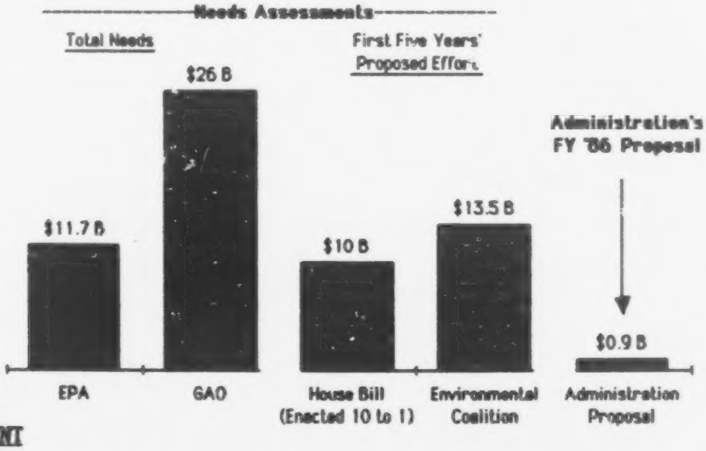
Because most of this additional work would be done outside EPA, e.g., at strengthened university centers of excellence, we believe the Agency's research staff could launch at least this level of effort in one year. However, as is always the case with research, much of the work would not be completed until subsequent years. The Administration's FY 1986 budget does not address this gap.

CAPITAL PROGRAMS

Despite the proposed increase in Superfund, the Agency's capital budget is also a source of concern. The Superfund budget would require 20 years to deal with the priority sites. (See Exhibit XI).

EXHIBIT XI

IS THE ADMINISTRATION'S $900 M INCREASED SUPERFUND ADEQUATE?



COMMENT

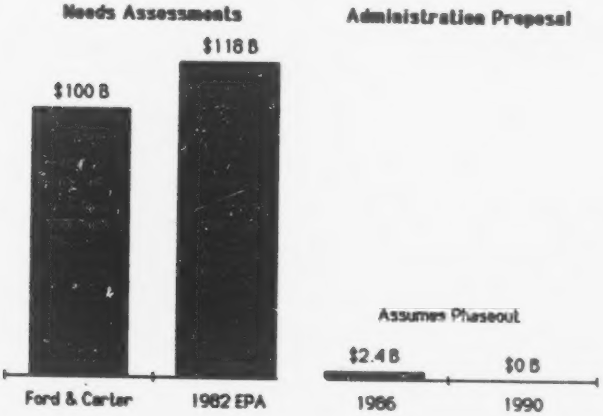
EPA's estimate of what it will take to complete the Superfund job, $11.7 billion, is based on a series of unrealistic assumptions (e.g., 50 percent cost recovery from responsible parties, no inflation). Adjusting for experience to date, EPA's analysis produces an estimate not far from GAO's $26 billion figure. In other words, it is proposing to take twenty years to get the job done, twice the time the House envisioned.

CONSTRUCTION GRANTS

The wastewater treatment construction grants proposal puts the Act's clean water objective at grave risk. (See Exhibit XII).

EXHIBIT XII

WILL MUNICIPAL WASTEWATERS BE CLEANED UP IF THERE ARE NO WASTEWATER TREATMENT GRANTS?



COMMENT

The Administration has confused two issues. There is, of course, a budget deficit. There is also a need and a willingness to move away from Federal financing resources. But OMB and EPA have attempted to solve the budget problem in an unworkable, fast-track way.

CONCLUSION

Keeping EPA's key protective programs roughly even (there is a few percent nominal increase, but there is also the huge added workload of the just enacted new RCRA hazardous waste law) is no success for environmental and public health protection. This is the budget level that has brought the country:

- A collapse of business confidence in our core public health protection laws, a collapse reflected in 80 percent noncompliance rates in program after program, government study after government study.
- A 40 percent decline in business investment in pollution abatement compared to the steady level of 1973-80 -- just as such investment should have increased sharply if the new toxic safeguards (RCRA, TSCA, toxic water effluent guidelines, etc.) were being implemented.

We have to disagree with claims that EPA has "done well." It cannot do its job with this level of resources. We hope that the members of this committee continue to insist that EPA be given the proper level of resources.

We are faced with a most painful question: Will we finally implement the nation's laws to protect the public against undue toxics risks? If anyone is going to insist that we face up to this question, I believe it will be the chief author of these laws — this Committee. If anyone can bridge the divisions that stand in the way of action once we have faced the question, it is this uniquely collegial Committee.

Thank you.

Environmental Safety
1519 New Hampshire Avenue, N.W. • Washington, D.C. 20036 • (202) 328-7903

DESCRIPTION OF ENVIRONMENTAL SAFETY

Environmental Safety is a nonpartisan educational organization of experienced environmental managers who monitor the administration of the nation's toxics laws and gauge the resulting impact upon the public health and safety. Environmental Safety's members have typically held high level positions in the federal government; run local, state and regional environmental programs; and worked or are now working in the private environmental sector.

Environmental Safety's past efforts have focused primarily on monitoring implementation and enforcement of the nation's toxics laws: pesticides, air, water, drinking water, toxic wastes, hazardous wastes and workplace exposure. The organization has special expertise in understanding management, budgetary and other institutional issues that are critical to implementing these public health safeguards. It, for example, maintains an extensive library of documentary resources that allow it and others who are interested to track budgetary trends over time for specific programs in considerable detail.

Environmental Safety provides careful, fact-based analyses of what is happening to the nation's environmental management capacity. It invests a great deal of time helping the press, various governmental bodies, including the Congress, explore these areas in greater depth. It also responds to a great many requests for information from concerned national, state and local public health, community, church, and other citizen organizations.

On July 10, 1984, Environmental Safety released a report entitled "America's Toxics Protection Gap" which extensively documented EPA's progress in implementing the nation's toxic laws. The report was endorsed by a diverse group of over 30 national organizations which included national religious groups, the National PTA, the March of Dimes and the Urban Environment Conference, and received substantial press coverage.

Environmental Safety is now expanding the scope of its review to the state and local levels by means of a network of religious and public health organizations. Environmental Safety plans to develop a model program and materials that will educate and train local groups to develop the issue of toxics and its solutions as it relates to their own communities.

Biographical Information on

WILLIAM DRAYTON, JR.

Born:	New York, New York	June 15, 1943
EDUCATION:	Yale Law School, J.D., 1970 Balliol College, Oxford University, M.A. (Primarily Economics), 1967 Harvard College, A.B., 1965	
WORK EXPERIENCE:	Current	Of counsel, McKinsey and Co., New York; Chairman of The Ashoka Fellowships and Environmental Safety, and Publisher of Next Steps
	1977-1981	Assistant Administrator (responsible for Policy, Budget Management and Audit) U.S. Environmental Protection Agency
	1977	Domestic Policy Staff The White House
	1975-1977	Faculty first at Stanford Law School and then at Harvard's Kennedy School of Government
	1970-1976	McKinsey and Co., Inc. New York, N.Y.
Current		McKinsey and Company, New York; The Ashoka Fellowships, Next Steps, and Environmental Safety, Washington, D.C.

Consulting to major corporate clients chiefly in the areas of industry strategies and organizational effectiveness. Roughly half time.

Chairman, the Ashoka Fellowships, an international nonprofit organization that helps third world individuals with exceptional entrepreneurial talent launch innovative nonprofit development or other ventures for the public good (e.g., in health, education, environment, protection of minorities, etc.). Chair, Environmental Safety, an association of environmental management professionals devoted to (1) monitoring the implementation of the nation's laws to protect against toxic risks and (2) evolving improved approaches to implementation. Publisher, Next Steps, a nonprofit service that seeks to increase the preparation of media time devoted to what might or should be done in major areas of public policy concern.

1977-1981 U.S. Environmental Protection Agency
Washington, D.C.

Served as Assistant Administrator responsible for: (1) the Agency's central policy staff (legislation and long term policy, economics, new regulatory approaches, program evaluation, statistics, energy policy, management of the Agency process for regulation development, and quality control of regulations); (2) resources management (design and management of the Agency's ZBB process, development of EPA's $5.5 billion budget, budget execution, reporting and accountability systems, financial systems, and grants policy and execution); (3) audit; and (4) management and common services (internal management consultancy, organization, information management, personnel, contracts, facilities and support, computers, and health and safety.) Directly managed a staff of 1,200 including 250 analysts and over 600 widely varied technical professionals.

Chief accomplishments: (1) Designed and implemented a more flexible, market-like approach to regulation that cuts costs sharply (over $1 billion in 1981) and stimulates environmentally critical control technology innovation by encouraging industry to find more efficient, yet still fully enforceable, ways of meeting environmental goals (offsets, the "bubble", banking, brokerage, marketable rights, etc.); (2) demonstrated the practicality and advantages of an unbureaucratic decentralized yet disciplined approach to public management designed to release individual creativity and energy and to channel them to serve common ends; and (3) built a first class group of colleagues who brought into being a host of other reforms, many broadly applicable beyond EPA, while also providing high quality ongoing services.

Other: (1) managed EPA's role in the Administration's energy/environment/economics discussions; (2) helped the major lesser developed countries' environmental programs take root (member three-person first U.S. Environmental Mission to China, work in and for India); (3) managed Agency role in the Clean Air Act Amendments of 1977; (4) helped with the emergence of comprehensive toxics management.

1976 - March 1977 Domestic Policy Staff
The White House

Responsible for transition materials/policy options for all regulatory areas other than the environmental and energy agencies. Worked on the design of Administration regulatory and management reform programs, e.g., airline and trucking deregulation and civil service reform.

February 1976 to February 1977	Harvard University, Cambridge, Massachusetts

Taught in the area of regulatory and management reform at the John F. Kennedy School of Government. Led a university-wide faculty seminar on regulation. Served as Director during the start-up of a planned University Center on Regulatory Alternatives.

September 1975 to February 1976	Stanford Law School Stanford, California

Visiting associate professor of law.

September 1970 - 1976	McKinsey and Company New York, New York

Helped a large number of diverse clients--governments (Federal, state, and municipal), foundations, and large private corporations--solve key management and policy problems. Examples of this wide-ranging work include: the development of corporate productivity programs for manufacturing and utility firms; the design of a set of innovative incentive taxes; developing new product and associated financial strategies; the design and implementation of a model, economics-based approach to regulatory law enforcement; and evaluation, policy, financial, and implementation work in the health, housing, welfare, and labor market areas.

EDUCATIONAL HONORS:

Yale Law School: Founding Committee and Chairman of Yale Legislative Services; Board of Editors, Yale Law Journal; Chairman, Yale University Humphrey-Muskie Committee; Helped reorient and served in legal services organization; Organizer and associate in bi-weekly, non-credit seminar in political analysis and methodology.

Oxford University: Graduated with First Class Honors; awarded James Gay Prize (history) and Jenkyns Prize (philosophy, politics and economics); Devourgilla and Cerebus Societies; Henry Fellow.

Harvard College: Graduated with Highest Honors; Phi Beta Kappa; Founder and President of the Ashoka Table, an interdisciplinary weekly forum in the social sciences; Dunster House India Seminar; Civil Rights Coordinating Committee; Northern Student Movement (Eastern Shore Project Chairman); Harvard-Radcliffe International Relations Council.

ASSOCIATIONS:

Member, New York and D.C. Bars
President, Society for the International Public Interest
Committee on Science and Public Policy, American Association for the Advancement of Science (1970-76)
President, The Lawyers' Committee on Tax Reform (1971-75)
The Council on Foreign Relations (1974-1979) and the Council's 1980s Project Working Group on Human Rights (1975-1976)
Member, Democratic National Committee Advisory Panel on Energy and the Environment and the U.S. House Democratic Caucus's Environmental Advisory Group (1982-)
Member, Steering Group, National Service Project (Ford Foundation funded) (1982-)
Member of the Boards, The Ashoka Foundation (India) (1981-) and The Yayasan Ashoka Indonesia (1983-).

PUBLICATIONS:

- "The Public Trust in Tidal Areas" - Yale Law Journal (1970)
- "The Tar and Nicotine Tax: Pursuing Public Health through Tax Incentives"- Yale Law Journal (1972)
- "Economic Law Enforcement" (6 Volumes) U.S. EPA (1975)
- "Beyond Effluent Fees"- MIT (1977)
- "Economic Law Enforcement" - Harvard Environmental Law Review (1980)
- "Getting Smarter about Regulation" - Harvard Business Review (1981)
- Breaking the Link, The New Republic, April 2, 1984 (Economic policy alternative)
- America's Toxics Protection Gap, Environmental Safety, 1984
- Numerous articles on environmental and economic issues in newspapers and magazines

Publications in Process:

A series of articles on decentralizing large organizations.
"Common Space Cooperatives"
"The Recycling Incentive Tax"

OTHER:

Jobs with: Congressmen William Ryan (New York) and Lee Hamilton (Indiana); OEO; Vice President Humphrey; and Nossaman, Waters, Scott, Kreuger and Riordan (Los Angeles law firm). Extensive travels in Europe, Africa, the Middle East, South and Southeast Asia, and--briefly--China and Latin America.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 22 1985

THE ADMINISTRATOR

Robert T. Stafford, Chairman
Committee on Environment
 and Public Works
United States Senate
SD-410 Dirksen Senate
 Office Building
Washington, D.C. 20510

Dear Mr. Chairman

Attached are this Agency's detailed responses to questions raised by Mr. William Drayton in a written statement presented during budget hearings on February 20, 1985.

I am grateful for this opportunity to express to you my views on these matters. Please contact me directly if I can be of further assistance.

Sincerely,

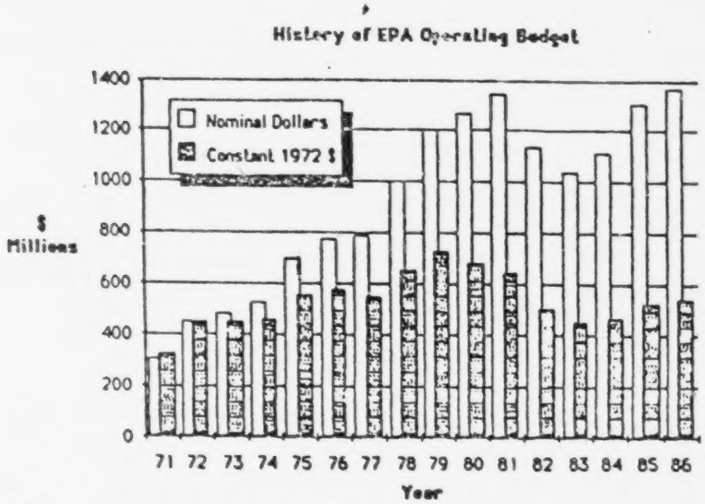
Lee M. Thomas

Enclosure

ASSERTION (page 3)

EXHIBIT II

THE 1986 OPERATING BUDGET SHOULD BE $1.638 BILLION IF EPA WERE TO HAVE THE SAME REAL (INFLATION-ADJUSTED) CAPACITY IT DID IN FY 1981



COMMENT:

The graphic depicts the Agency's operating budget only, and adjusts the figures to constant 1972 dollars.

RESPONSE:

Simply adjusting the Agency's budget to account for the effects of inflation is a meaningless exercise. The nature of the Federal budget process is such that a previous years budget is not simply carried forward adjusted for inflation. If this were the case, the deficit facing the nation could only be imagined. A compa-son of the FY 1986 budget request to the FY 1981 budget is a comparison of "apples and oranges". The Agency's capacity is not determined by what the budget in 1981 was but rather by what we are "purchasing" in 1986. Given the deficit we must deal with, EPA receiving one of the largest percentage increases in the domestic budget is something we should all be pleased with.

The following highlights some of the weaknesses of this comparison:

- As with every government agency, programs evolve over time and priorities change. Since FY 1981 the Agency's programs and priorities have changed dramatically. These changes are not apparent by simply looking at just the aggregated numbers.

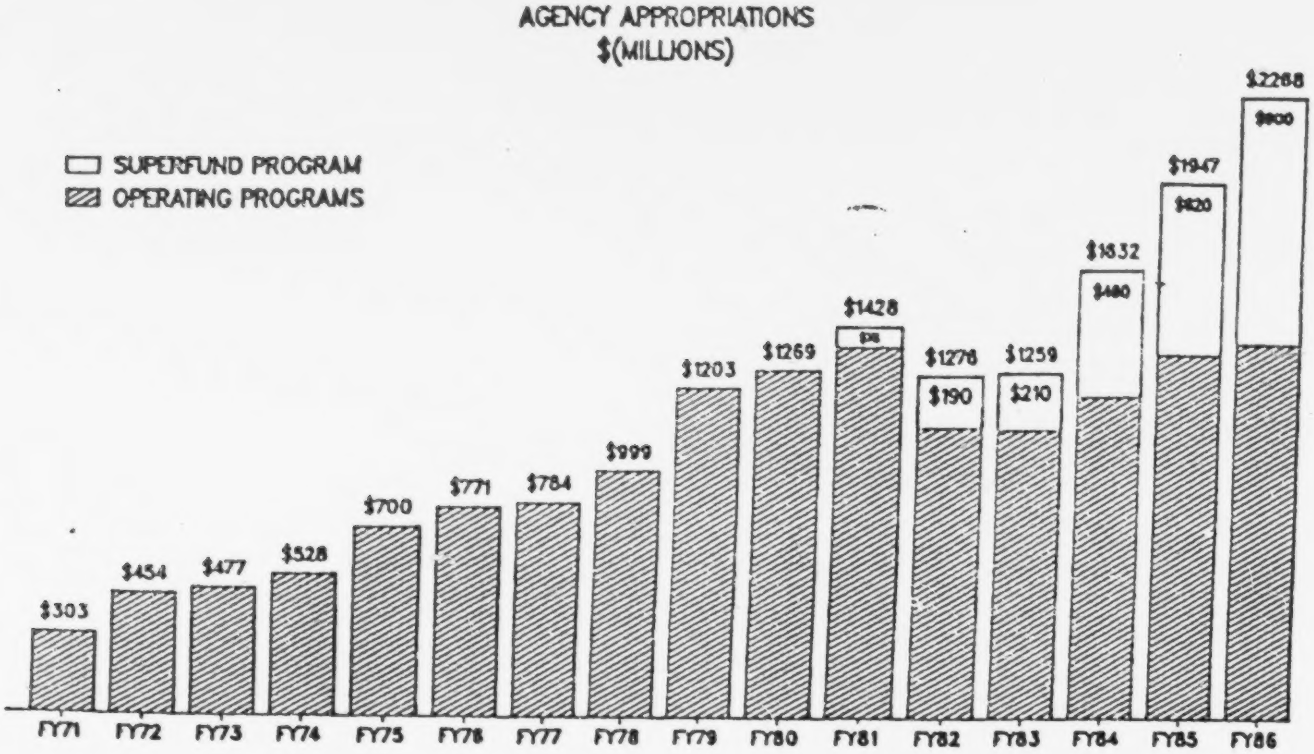
- By deflating the Agency's budget to 1972 dollars, the comparison becomes one based on the need to repurchase everything from the previous year plus add for inflation. This sort of analogy discounts the benefits gained from 14 years of investments.

- By omitting the Superfund figures, the Agency's $2.5 billion dollar investment over the period FY 1981-FY 1986 is rendered irrelavent. The Superfund program is the most important environmental challenge facing the country today.

- The substantial investments being made in the Agency's RCRA program over the last several years is neglected.

The attached graphic provides a look at the Agency's budget for the Operating Programs and Superfund over this same period of time.

THE SUPERFUND BUDGET INCREASES TO $900 MILLION WHILE THE OPERATING BUDGET INCREASES TO $1,368 MILLION



ASSERTION (Exhibit III): EPA has not been able to do its job in the 1980's. EPA has evaluated and acted on only 12.5% of hazardous air pollutants.

EPA RESPONSE:

- It is impossible at this time to state what fraction of the hazardous air pollution problem the Agency has already addressed. Many of EPA's programs to address criteria pollutants have also had a significant impact on air toxics. This is because the control equipment installed to meet ambient air quality standards also reduces emissions of the toxic contaminants in waste streams. As a result, the Agency estimates (based on a review of 18 compounds) that the cancer incidence due to air toxics in urban areas is now only half of what it was in 1970.

- The Agency has underway several programs to further reduce hazardous air pollutants:

    - The Agency has pledged to make 20-25 listing decisions under §112 by the end of 1985.

    - The Agency has promulgated and is promulgating mobile source emission standards that will reduce ambient levels of certain air pollutants.

    - The Agency will continue to implement its criteria pollutant program, which through its new source performance and state implementation plan programs, will have the ancillary benefit of reducing air toxic emissions.

ASSERTION (p.4): EPA has not built a monitoring system for Air/ Water Toxics. Zero percent (0%) on graph.

EPA RESPONSE:

- In our monitoring program, we are working to use monitoring data better to identify and assess problems and areas where we need to focus our abatement and control efforts on toxic pollutants. Monitoring data comes from several sources: ambient monitoring, compliance monitoring, and special project monitoring.

- EPA State ambient monitoring program in rivers, streams, lakes and coastal waters is designed to assess water quality, identify trends in toxic pollutants entering the environment, and focus efforts on waters not fully supporting designated uses.

  - Over the last decade, EPA has worked with the States to get measurements of the concentrations of toxics in tissue samples from aquatic organisms, especially fish and shellfish. A number of States measure levels of toxics in fish tissue samples annually at ambient water monitoring stations. This is recommended in the Basic Water Monitoring Program, EPA's guidance to the States on ambient monitoring.

  - In the mid-70s, EPA measured levels of several toxics in shellfish tissue samples from 101 stations in coastal waters. In a cooperative effort with NOAA, this monitoring program (the "Musselwatch Program") is being continued and expanded to more coastal and estuarine stations.

- In addition to ambient monitoring, EPA has other programs to collect information about toxics in the environment. Through monitoring directed at specific industries, EPA has characterized the toxic constituents in the effluents of the primary industries, focusing on the list of 126 priority pollutants. We have used these monitoring data and characterizations to develop BAT regulations to control discharges of toxics from dozens of categories of industries.

- Thse BAT regulations are translated into NPDES permits, which include both effluent limits and monitoring requirements for toxics. Through this "self monitoring" required of permitted sources, we receive monitoring information on toxic discharges that we use to assess compliance. We also independently assess compliance through a sampling and inspection program conducted by the States and EPA.

- Special project monitoring is usually initiated to respond to a priority national concern or potential problem.
  - One major special monitoring effort that we are working on right now is the National Dioxin Study, an assessment of contamination in hundreds of sites across the nation.
  - We are planning to follow up this project with similar studies of other bioaccumulative pollutants that have been identified.
- In a related area, EPA publishes guidance and approved methods to ensure that monitoring is done properly and that analytical results (data reported) are meaningful and can be interpreted consistently. This is no small job because these toxics most often occur in very low concentrations and are difficult to detect in water samples. Special precautions have to be taken from the time of sample collection to the time the laboratories analyze the sample and report the results. All of the 114 organic priority pollutants and 14 of 15 inorganic pollutants are now covered by EPA-approved analytical methods.
- In late 1984, EPA began a pilot program to monitor long-term trends in ambient air toxics. Called the Toxic Air Monitoring System (TAMS) network, this program is currently being implemented in the cities of Houston, Chicago, and Boston. There are plans to expand the range of this program at the completion of the pilot stage. Methods are continuously being developed and tested to allow for the most efficient methods to measure the wide range of potential organic compounds thought to be in urban ambient air.
- The measurement of a significant number of toxic metals in the ambient air has been an on-going Agency activity for over a decade. High volume samplers, used to measure particulate matter concentrations in support of the National Ambient Air Quality Standards, collect toxic metals. As a result of this program, long-term trends in ambient toxic metal concentrations have been documented.
- In addition to these on-going programs, EPA has engaged in many activities which involved air toxics monitoring for periods ranging from days to months. Included in these are the Integrated Environmental Management Projects, which collected three months of monitoring data in Baltimore and Philadelphia; the Total Exposure Assessment Monitoring (TEAM) study, involving indoor and outdoor air toxics monitoring; the Environmental Radiation Ambient Monitoring System (ERAMS) monitoring network for radioactive air pollutants; and the Integrated Air Cancer Study which at present is investigating toxic air emissions from wood burning stoves.
- EPA may need to integrate better the compilance and ambient components of our monitoring program, but I think it is clear that we are collecting information on toxics entering the environment. We use this information to make regulatory decisions, to conduct national assessments, and to evaluate programs.

ASSERTION: (p. 4, referring to Exhibit III): EPA has issued less than 12 percent of the NPDES permits required for controlling water toxics.

EPA RESPONSE:

o Mr. Drayton's assertion is simply false. As of February 19, 1985:

  - EPA and EPA-approved States have issued 2161 of 3141 (69%) of BAT-level permits to major dischargers in primary industries. (Primary industries are those identified by EPA as priority targets for toxics control).

  - Overall, EPA and EPA-approved States have issued 26,580 of 44,587 (60%) BAT or BCT-level permits to all dischargers in all industries.

o Mr. Drayton's figure apparently includes NPDES permits issued to POTWs. This is misleading.

  - POTWs are not subject to BAT toxics control provisions of the Clean Water Act, but rather must implement local pretreatment programs to control toxics.

  - EPA has launched a major initiative to implement the pretreatment requirements of the Act. As of January 1, 1985, about 850 local pretreatment programs have been approved.

o In a related accomplishment, EPA has issued 24 final effluent guidelines for primary industries, including iron and steel, petroleum refining, and nonferrous metals. The Agency will complete the balance of the court-ordered individual regulations in the next year.

ASSERTION (p.4): It [EPA] has typically managed only between 1 and 12 percent of its toxics control workload since 1981. Screen/Control Existing Chemicals less than 1% [from chart in Exhibit III].

ASSERTION (p.6): Eight years after the Toxic Substances Control Act (TSCA) passed, EPA has regulated only five of the 60,000 chemicals in commerce. By mid-1984, it had (under court pressure) asked for further information on only 1/10 of 1 percent of the remaining substances.

EPA RESPONSE:

- The many thousands of existing commercial chemicals cannot all be regulated or evaluated simultaneously and only a relatively small percentage will ever require EPA action. By 1984 regulations had been issued controlling five specific existing chemicals with PCBs (banned under section 6(e)) requiring over eight separate actions.

- Although regulations have been issued controlling only 5 specific existing chemicals, EPA has screened over 3,000 studies on hundreds of existing chemicals. The existing chemicals review process is now working on nearly 85 existing chemicals problems. The high priority chemicals we have assessed in the past or are now assessing include methylene dianiline, formaldehyde, 1,3-butaidene, MBOCA, glycol ethers, asbestos, and amine-based metal working fluids. On the first three of these EPA has made determinations under section 4(f) that the chemicals are on a "fast track" for regulation action. Chemical advisories have been issued for used motor oil and amine-based metal working fluids and the agency is nearing completion on advisories for MBOCA and p-t-butyl benzoic acid. This ongoing risk management work will produce 12 actions on six chemicals this year.

- The agency has issued testing decisions on over 70 existing chemicals identified by the Interagency Testing Committee and is already reviewing some 500 test studies on 22 chemicals obtained through negotiated testing agreements. The first section 4 test rules are nearing completion. EPA has also effectively used TSCA's information gathering authorities. We have used section 8(e) to identify the most serious potential problems and have implemented section 8(c) to ensure that records are kept of individual complaints about adverse effects of chemicals.

ASSERTION (p.7): EPA has reregistered only 125 (relatively important) of the 40,000 existing pesticide products. The National Academy of Sciences reported in 1984 that we do not have adequate information even to conduct health hazard assessments on 90% of these pesticides.

EPA RESPONSE

- Actually there are only about 600 pesticidal active ingredients (the 40,000 figure refers to formulated products which are composed of varying amounts of the 600 ingredients plus inert ingredients). By the end of 1985 the Agency will have reviewed existing data and issued registration standards for about one fifth of these. Our reviewed schedule is based on assessing the highest priority chemicals first, taking both exposure patterns (e.g., dietary) and the amount used into consideration. The 100 plus to be review through 1985 represent about one-third of the total, annual pesticide usage in the U.S. (based on 1981 usage statistics). The Agency has imposed additional restrictions on 60% of those active ingredients for which Registration Standards have been issued.

- In addition to the 100 plus chemicals whose existing data base has been reviewed, the Agency has launched a companion program to call in key chronic effect studies for all food use chemicals. The chronic effects data were selected for the call-in because they form the basis of a risk assessment and they take the longest period of time to complete (up to 4 years). The intent of this call-in is to have all the key chronic effects data available at the time the chemical is scheduled for full review. This program to call-in missing chronic effects data will be essentially completed by the end of 1985 for all food use chemicals. In addition, the program is being expanded in 1985 and 1986, to obtain the chemistry and exposure data needed to conduct complete reassessments of each chemical.

- As of the end of FY 84, 30 active ingredients including some with high potential for risk to human health had been cancelled or suspended as a result of these two programs.

- In addition, recent experience indicates that about 30% of the active ingredients reviewed for Registration Standards are referred to the Special Review Program for intensive risk/benefit evaluation. This program, which also reviews chemicals identified as a result of data arising from other sources indicating potential adverse effects, has produced 73 final decisions concerning conditions for marketing and/or use of 68 chemicals since its inception.

- These three major programs (Data Call In, Registration Standards and Special Review) comprise the Generic Chemical Review activity for evaluating the health and environmental impacts of currently registered pesticides and taking appropriate regulatory action when warranted.

ASSERTION (p.4): Superfund Sites Fully Cleaned Up < 1%

EPA's RESPONSE:

- For "totally" cleaned up sites, this is correct. However that statement misses a lot of what we have done, and misleads the public into believing we have not made much progress.

- Through FY 84, EPA has

  - completed 10,700 preliminary assessments

  - completed 3,600 site inspections

  - ranked 1,700 sites using the Hazard Ranking System

  - placed 538 sites on the National Priority List as of October 1985, with an additional 248 proposed.

- Through FY 84, EPA and the Coast Guard

  - initiated 472 removal actions, of which 327 were initiated in FY 83-84

  - estimated the cost of actions as estimated > $87 million.

- In FY 83-84, the remedial program initiated

  - remedial investigations and feasibility studies at 290 sites

  - remedial designs at 34 sites

  - construction at 29 sites

- The enforcement program has led to responsible parties undertaking

  - 25 RI/FSs

  - 22 cleanups

  - 144 consent decrees valued at more than $310 million.

- In addition, EPA has issued 111 unilateral administrative orders to private parties to compel investigative or cleanup activities.

(Source: CERCLA 301(A) Study, December 1984) (p.5) ASSERTION: Reductions in real business pollution control investments since 1980 indicate that previously installed pollution controls are being run down, and that new toxics controls are not being pursued.

RESPONSE: The assertion is incorrect because 1) Investments made in the 1970s represent initial expenditures and not replacement, and 2) many toxics control efforts do not appear in the accounts as business pollution control investment.

The average life of pollution control equipment is on the order of 15 years. Therefore, we do not expect to see large capital outlays for replacing pollution control investments made in the 1970s until the late 1980s and 1990s. Reductions in pollution control investments observed since 1980 have no bearing on the replacement cycle for most controls installed in the 1970s. Indeed, Exhibit IV provided by Mr. Drayton is misleading in that investments made from 1970 through 1972 are omitted. As the attached figure illustrates, rising investment in pollution abatement in the mid 1970s reflects initial outlays and not replacement.

Does the decline in real investment in pollution controls since 1980 imply that businesses are not addressing toxics adequately? No, it simply reflects the different nature of toxics regulation. The screening and control of chemical products under TSCA and FIFRA do not require outlays for pollution control equipment. Likewise, expenditures made under CERCLA to clean up Superfund sites would not show up as business investment. Further, many of the pollution control investments made in the 1970s involved the fitting of equipment at existing production facilities. As time passes and the regulated community matures, new and cleaner production processes are adopted and facilities built. These environmentally beneficial investments would not show up in business surveys as pollution control expenditures per se, but as investment in plant and equipment generally.

One also expects to see investments decline after 1980 because of general economic conditions. The pattern displayed in Mr. Drayton's Exhibit IV reflects the recession and the sharp rise in interest rates. Corporate bond rates jumped by more than two points between 1980 and 1981 (an increase of nearly 20% on borrowing costs), and only approached 1980 levels again in 1983. And, the reduction in pollution control investments was not out of line with total investment. In fact, pollution abatement investments have been a gradually declining share of total new plant and equipment expenditures since 1975.

In sum, declines in real business investment for pollution controls since 1980 do not reflect a running down of conventional pollution controls since investments in replacement equipment generally are not expected for several years. Nor does the decline imply that toxics laws are not being implemented. Many toxics controls do not require investments in new equipment, and often are realized through modernization and process change investments that are not captured in the national accounts as "pollution control investment."

Assertion on Page 5: "The General Accounting Office reports 82 percent noncompliance with water quality standards by major sources of water pollution. Other GAO, EPA, OTA studies show similar noncompliance rates in other areas."

AND

Assertion on Page 16 (Conclusion): "... 80 percent noncompliance rates in program after program, government study after government study."

RESPONSE

Mr. Drayton's compliance figures refer to reports that we at EPA have tried to set straight on several occasions, including when Mr. Drayton published his summary of them a year ago.

I feel we are doing a good job of achieving and maintaining compliance and my information backs me up on this. My most recent management report from EPA Regions and States shows significant noncompliance levels for major water pollution dischargers to be running around 7% to 13% depending on whether we are looking at industrial or municipal facilities. The dated GAO report Mr. Drayton refers to includes in its counting all violations large and small. It makes no distinction between those large scale violations we call "significant" which may or may not require enforcement action to correct, and those many small temporary violations which are quickly and easily corrected by the facility operators and are nearly always corrected without the need for Agency enforcement action.

My most recent information from my Regional offices and from State Agencies shows significant noncompliance levels are very low in other programs areas as well. For major Air pollution sources the level is 10%. Mr. Drayton has used as a reference for his own figures a study presenting the results of our newly developed laser detection device applied to a very small sample of known or suspected sources of violation.

Further for Drinking Water, persistent violation of micro-biological standards is about 1 1/2% and for our most recent standard (trihalomethane) is only about 3 percent for systems serving more than 75,000 people.

ASSERTION (p.4): Active Hazardous Waste Sites Permitted 7%

ASSERTION (p.6): The hazardous waste law was ready for field implementation in January, 1981. EPA put as its highest priority the inspection and definition of safe operating permits to active hazardous waste facilities. In the last four years, EPA has inspected and permitted only 348-353 of 4,998 facilities now on their list. EPA admits that its monitoring of even these sites is failing badly and that toxic substances could well be leaking into underground water supplies. GAO reports that 78 percent of the others are violating minimum interim safeguards.

EPA RESPONSE:

- Major portions of the law were not ready for field implementation in January 1981. The disposal standards were not done until July 1982 and they did not go into effect until January 1983. Mr. Drayton is largely correct on permitting. However, we have completed far more inspections -- in FY 84 EPA and the states conducted almost 4,600 inspections of the approximately 2,900 major facilities.
- EPA and the states have called in 2,610 permits (50%) and written 455 draft permits. While issuing permits we have also denied 31 permits and have found 1000 facilities that decided not to receive a permit when we called in their applications. (Note: some unknown amount of these withdrawals are valuable closures of poor facilities and the others were "protective filers".)
- The ground-water monitoring program has problems and we are working to rectify them through a special task force.
- GAO's report covers all types of violations (its not hard to have paperwork violations given the newness, complexity, and breadth of our rules). It's very unclear that there are many major violations that are leading to direct harm of the public.

ASSERTION (p.6): The 1984 reauthorization of the Hazardous Waste Law adds enormous new responsibilities to EPA's workload. In addition to the 70,000 firms regulated under the old law, EPA now must regulate 170,000 small quantity generators and up to 2 million underground storage tanks as well as meeting new statutory deadlines and tougher standards for permitting that at least double the workload. A 1984 survey of its members by the Association of State and Territorial Solid Waste Management Officials found the states already 70 percent short of the staff they would need to meet the limited requirements of the old law.

EPA RESPONSE:

- Mr. Drayton is using 1980 figures on regulated firms and small quantity generators. Current figures indicate we currently regulate less than 15,000 generators and will control roughly 100,000 small generators. For instance boiler and waste oil rules could add many more facilities to the program.

  Note: The 1984 resource state survey referred to may have been for CERCLA and not RCRA.

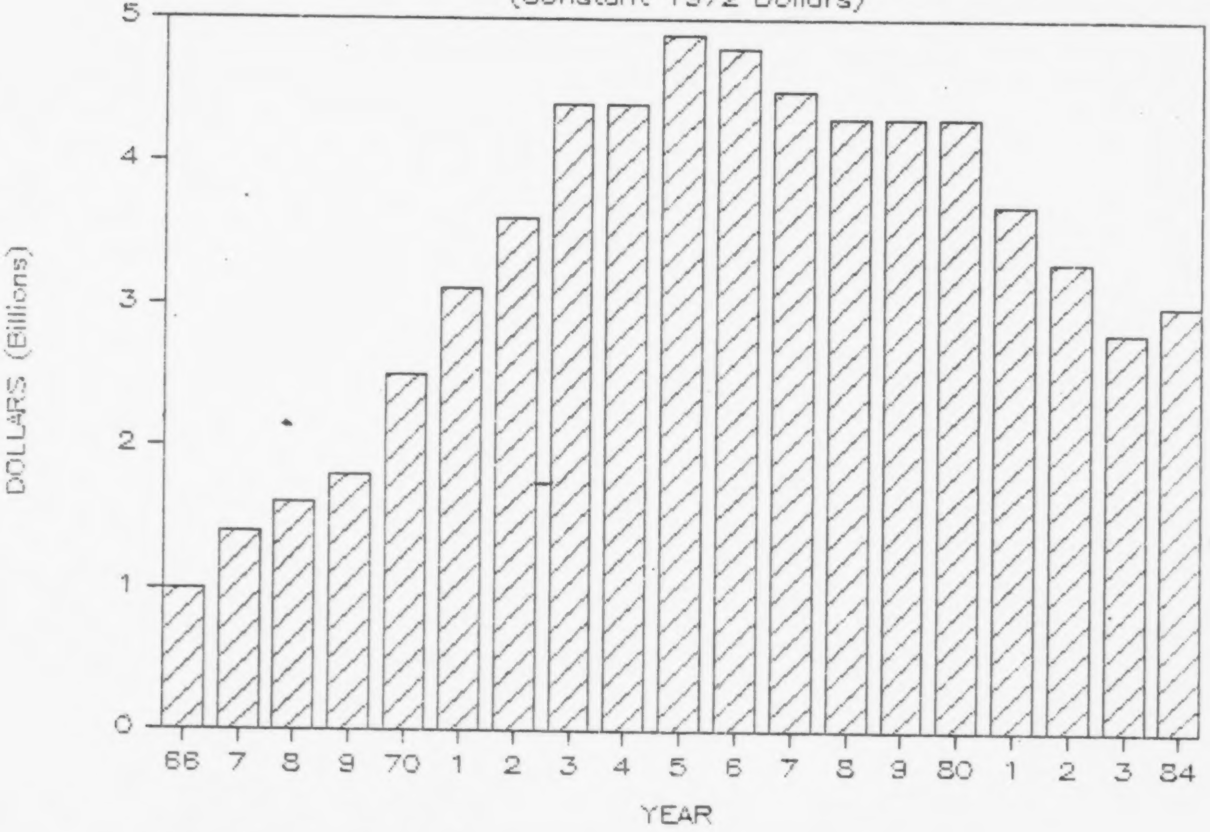
ASSERTION (p.7): EPA requested additional information on only 3 to 6 percent of the more than 3,000 chemicals submitted to it over the past three years for pre-production safety screening. Fifty percent of the submissions contained no toxicity data whatever and eight percent had no chronic toxicity (e.g., birth defects, cancer) risk information.

EPA RESPONSE:

- It is true that the majority of the 4,200 new chemicals reviewed to date have not required any action on the part of the Agency, including the 35-40% that have been in known "low-risk" categories (polymers, site-limited intermediates, or low volume specialty chemicals).
- About 250 chemicals (6%) were identified as being "suspect" and EPA has either imposed testing requirements or control measures to minimize exposure. In some cases, EPA is using tiered testing schemes where health and safety testing are required as the production volume of the chemical increases. This approach allows the introduction of potentially safer new chemicals while ensuring that data are generated when needed. In other cases EPA has proposed or has plans to propose significant new use rules (SNURs) to ensure that subsequent manufacturers or processors do additional testing or adhere to any exposure restrictions placed on a new chemical.
- The absence of toxicity data on new chemicals is a valid concern. However, TSCA does not mandate pre-market testing and EPA must make an unreasonable risk finding before the imposition of test requirements. In the absence of such data, EPA uses structure activity relationships (SAR) to evaluate new chemicals. Because of our reliance on this technique, we are initiating a study to validate the accuracy of SAR as an indicator of hazard. We are also examining section 5(b)(4) as a way of requiring supplemental data on certain new chemicals. Manufacturers of new chemicals that are a member of a listed 5(b)(4) category would be required to submit, with the PMN, data specified in the 5(b)(4) rule.

Business Pollution Control Investments

(Constant 1972 Dollars)



Source: U.S. Department of Commerce, Survey of Current Business, May 1984.

ASSERTION: (page 7) The Agency established no new final drinking water standards since 1979.

EPA RESPONSE:

° It is correct that EPA has published no new final drinking water standards since 1979. There is, however, a wave of standards which will begin hitting the street this spring and which will continue to crest for the next several years.

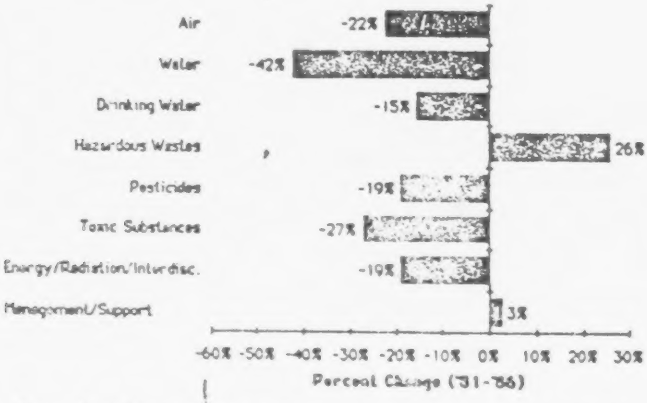
° The ODW has planned the revision of the existing standards in four phases. The first phase will be completed this spring with the promulgation of RMCLs and the proposal of MCLs for VOCs. These VOCs are likely to include trichloroethylene, tetrachloroethylene, benzene, vinyl chloride, and carbon tetrachloride. In addition, the Agency will be initiating a second phase of revised drinking water standards with the issuance of proposed RMCLs for selected synthetic organic chemicals, inorganic chemicals, and microbiological contaminants this spring. The third phase will address radionuclides, with an ANPRM expected in early 1986. The fourth phase will address disinfectant byproducts including a revision of the existing trihalomethane standards.

Hence, although it would appear that the Agency has fallen behind in its commitment to issue revised drinking water standards, it has in fact been vigorously developing new standards based on the most recent and highest quality scientific evidence on the carcinogencity and toxicity of chemicals affecting the nation's drinking water supplies.

° In 1986, EPA will initiate a monitoring program for unregulated contaminants in drinking water, using legislative authority in Section 1445(a). This program should give public water systems, regulating agencies, and the public a better awareness and more accurate knowledge of what might be in drinking water nationwide. As a result of this monitoring, previously unregulated contaminants are likely to be added to the NPDWR; health advisories will also be produced for many contaminants of interest.

1986 REQUEST VS. 1981 BUDGET

(page 8) Assertion: EPA's key protective programs have typically been cut 20 to 40 percent. (The following chart is Mr. Drayton's representation of the 1986 Budget vs. 1981 Budget.)



Response: In real dollars, EPA's 1986 Request vs. 1981 Budget compares as follows:

(dollars in millions)

	1981	1986	Difference	%
Air	$248.2	$236.1	-$12.1	-5%
Water	344.8	238.6	-106.2	-31%
Drinking Water	84.0	87.3	+3.3	+4%
Hazardous Waste	103.0	235.8	+132.8	+129%
Pesticides	69.5	69.3	-.2	0%
Toxic Substances	106.7	93.7	-13.0	-12%
Energy/Radiation/Inter./Noise	149.4	123.2	-26.2	-18%
Management/Support	221.6	283.6	+62.0	+28% **
Superfund	129.7	900.0	+770.3	+594%
TOTAL	$1,456.9	$2,267.6	+$810.7	+56%

- The Agency's Operating Programs and Superfund have increased almost $810 million or 56 percent from the 1981 budget level.

- The Operating Programs in the 1986 request are at a level $15 million higher than in 1981; Superfund has grown from a $130 million program in 1981 to the 1986 request level of $900 million, an increase of almost 600 percent.

** The management and support media includes both those costs associated with the workyears in the management area along with the costs of operating the Agency on a day to day basis. This includes such items as rent, utilities, telecommunications, postage, etc.

o Taking into account inflation during the time period 1981 through 1986, our Operating Program resource levels have decreased substantially. However, many programs necessary in 1981 were decreased or phased out because those levels of resources and those programs were not needed. Some of these programs are:

208 Planning: ($-34M) FY 1981 was intended to be the final year of this grant program.

Noise Program: ($-13M) This program was eliminated by the Administration and Congress in the FY 1983 budget.

Energy: ($-58) The 1981 level of energy research is not necessary in 1986 -- the major decrease occurred three years ago. (This is the pre-Acid Rain Energy Program.)

o Even accounting for inflation, resources for the Operating Programs and Superfund combined are higher in 1986 than in 1981. Also, in addition to the enormous increase in Superfund during this period, other important programs have increased dramatically as well. Hazardous Waste resources have grown to $236 million in 1986 from $103 million in 1981; Acid Rain funds increased from $7 to $61 million during this period.

ASSERTION (p.9): "- and certainly not when stacked up against RCRA's 240,000 regulatees workload."

EPA's RESPONSE:

o We currently have a "regulated" workload well under 100,000 counting 15,000 generators, 12,000 transportors, and 5,000 waste management facilities. In the future Mr. Drayton's number could be low with the additions of industrial and residential boilers, waste oil generators, small generators, underground tanks and other groups the "new" RCRA could cover.

Page 9) ASSERTION: RCRA Hazardous Waste Program Increases are Inadequate

- Mr. Drayton's comparisons of 1981 to 1986 resources are incorrect.
- Mr. Drayton's assertions of program need are based on inflated and outdated data.

RESPONSE:

- Mr. Drayton asserts that although the RCRA program has increased 26% over 1981 levels, even that increase is not meaningful since 1981 represented a preimplementation planning base.
  - The increase over 1981 actuals for the hazardous waste media since 1981 actually totals 58%.
  - Direct comparisons of 1981 to 1986 resources are invalid. The 1986 budget supports only the hazardous waste program, while the 1981 budget also provided resources for programs which have been phased out or restructured to other program areas such as resource recovery and pre-Superfund activities.
    - If these resources are taken out of the comparison so that only Subtitle C (hazardous waste) activities are being compared, the increase is actually 144 percent.
  - Further, the assumption that 1981 did not include resources for implementation is incorrect.
    - In 1981, almost 450 workyears were budgeted for state authorization, permitting and enforcement activities.
- Mr. Drayton also implies that the real program need is in excess of 2,369 workyears and $360 million.
  - While we cannot find any documentation which totals to Mr. Drayton's estimates, he has stated that the source for his estimate is EPA workload analysis.
  - The only workload model that Drayton had access to was developed in 1980 and updated in 1981.
    - The data and assumptions used in the model are extremely outdated.
    - The model only addresses workyears not dollars although Drayton's chart gives workload analysis as the source of both totals.
    - The model provides workyear totals for both the State and EPA together. Drayton's chart compares an EPA and State workyear total under the "model" to only the EPA workyear total.

ASSERTION: "THE CONGRESS ADDED $35 MILLION TO STATE GRANTS IN THE 1985 APPROPRIATION, $16.5 MILLION OF WHICH WAS MEANT TO BE USED BY EPA FOR NEW COMPETITIVE GRANTS TO IMPROVE COMPLIANCE AND ENFORCEMENT".

-- While Congress did indeed provide an additional $16.5 million for improved compliance, we made the decision to shift $11.5 million of this amount to support new high priority activities associated with the 1984 RCRA Amendments.

-- Even after this reprogramming, between 50 and 60% of the Agency's continuing grant funds are to be used for compliance related activities

EPA'S RESPONSE "DUE TO PRESSING PRIORITIES BASED ON THE 1984 RCRA AMENDMENTS, WE MADE THE DECISION TO USE THE MAJORITY OF THE FUNDS ADDED BY CONGRESS TO SUPPORT THESE NEEDS".

-- We fully support the need expressed by Congress in 1985 for increased Federal support for State compliance activities.

-- Accordingly, we have requested an increase of $19.3 million in 1986 for the Agency's continuing grant programs, primarily for compliance related activities in the States.

ASSERTION: "EPA's RESEARCH PROGRAM IS OPERATING WITH LESS PURCHASING POWER THAN
(page 11)
IT HAD STARTING UP IN 1972."

- This is an old assertion that is based on the assumption that the benchmark for proper funding for EPA's research program should be the economic inflation rate in the United States.

- Additionally, there is the assumption that the programmatic need for EPA's research is essentially unchanged since 1972.

EPA'S RESPONSE: "THIS IS NOT A VALID BASIS FOR DETERMINING THE ADEQUACY OF EPA'S RESEARCH FUNDING."

- One cannot compare the 1972 research program directly with the 1986 program. During these years there have been a number of significant programmatic changes in EPA's research. Several programs have been completed. Several have been substantially changed and many new research responsibilities have been added.

- To illustrate this point, between 1981 and 1986 alone, the Energy research program has dramatically changed. In the early '80s, this program emphasized research on the environmental effects of the growing synthetic fuels industry. In fact in 1981, the Energy research budget totalled $84 million. However, the synfuels industry did not prove to be as commercially viable as first anticipated. As a result by 1983, the Energy research program had been reduced to $27 million. In the last few years the Energy research program has again had a dramatic increase due to the Acid Rain program. Due to Acid Rain funding increases, the Energy program in 1986 totals $67 million.

- EPA's research program is not a static program --- subject simply to funding levels tied to the consumer price index. The program is a dynamic process subject to changing research needs.

ASSERTION (p.10): With the pre-implementation EPA resources cut and the states 70 percent understaffed, only 1-1/2 percent of even the highest priority single implementation task (the inspection and closure or permitting of active facilities) has been accomplished on average over the last four years. And 316 of the 348 facilities that have been handled are the relatively easy to permit storage and treatment facilities; only 18 incinerating facilities and 14 disposal facilities have permits. If that's all EPA has been able to do with the 5,000 firms receiving its priority attention, just how little has been done with the other 65,000 supposedly covered by "old" RCRA? And what is the likelihood that the proposed 3000 new staffers could correct this failure and deal with 170,000 additional firms just brought under the statute -- and apply tighter, more complex standards as well? (See Exhibit VII).

EPA'S RESPONSE:

o The first 2 sentences are a rehash of Mr. Drayton's earlier remarks on permitting and inspections. He is basically accurate. The next statement in regards to the "other 65,000" is probably an allusion to our 1980 estimate on the number of generators. We have better data indicating there are more like 15,000 generators and we have been conducting inspections at these sites -- almost 4,600 in 1984.

ASSERTION: "EPA's 1985 RESEARCH BUDGET SHOULD HAVE BEEN $595 MILLION (NOT $193
(page 12) MILLION)."

- The assertion is based on a 1981 "inflated" research base and the addition of "new" research responsibilities since 1981.
- The assertion is difficult to evaluate in that there is no explanation of how the $595 million number was derived.

EPA'S RESPONSE: "THE ASSERTION IS DIFFICULT TO EVALUATE IN THAT THERE ISN'T AN ADEQUATE EXPLANATION OF HOW THE NUMBERS WERE DERIVED. HOWEVER, MANY OF THE PROGRAMS DESCRIBED AS COMPONENTS OF THE $595 MILLION RESEARCH NEED HAVE RECEIVED INCREASED FUNDING EMPHASIS FOR SEVERAL YEARS."

- Several research program areas are described as having an increased research need since 1981: structural research, monitoring, toxic health effects, hazardous wastes.
- Each of these areas are active research programs at EPA. In fact each of these programs received increased funding in the 1986 President's Budget. For example in 1986, EPA's hazardous waste research budget increases by $8 million, toxics and pesticides research increases by $14 million and monitoring research increases by $7 million.

ASSERTION: (page 13) Exhibit X of Mr. Drayton's testimony:

EPA RESPONSE:

- This is a laundry list of rather vague titles and topics, for example "regional labs," "water monitoring device developments," "groundwater." We are not sure what many of these mean nor how the budget levels noted were derived. Some appear to identify generic research ("groundwater") on which we have expended ever increasing resources over the past several years. For example, in groundwater we are budgeting some $19.6 million in FY 1986, an increase over FY 1985 of $4.1 million.

- Mr. Daryton also mentions "environmental toxics" as an area of "missed opportunity." Our toxics research program, however, has shown steady growth; our President's Budget for toxics research is $37.8 million, a substantial increase of $11.8 million over the past year.

- In the ecological effects area, we are conducting microcosm research, and studies in the areas environmental risk and biotechnology. We are conducting community level ecosystems studies for water quality related standards development, and generic toxicity research in support of NPDES permitting.

- In the hazardous waste area, our biggest expenditures are for environmental engineering. In monitoring, we are implementing the Toxics Air Monitoring System (TAMS), to characterize urban atmospheres and estimate national trends. We are expanding our Human Exposure Assessment Location (HEAL) program. We will have established an exposure monitoring testing site for evaluation and validating a broad range of toxics sampling and monitoring equipment. We are working on refinements to remote sensing.

- On risk assessments, in the hazadous waste area alone, we expect to have between 150 and 200 documents prepared for health and environmental effects assessments in FY 1985. We also will have completed 5 of 6 risk assessment guidelines in FY 1985.

- Our research program is very carefully structured to address the priority needs of the Agency in its regulatory programs. While there is always more that could be done, I do not believe there are major gaps in our research program.

(p.14) ASSERTION: The Agency's $900 million request for Superfund may be inadequate.

EPA RESPONSE:

- Mr. Drayton's statement is not further supported within the text, and his graphic representations are misleading. Consequently, it is difficult to pinpoint his exact concern.
- The $900 million Superfund budget request supported by 1716 workyears will adequately meet our program needs for FY 1986.
  - It represents an increase of $280.0 million (+45%) and 359 workyears (+26%) over the 1985 appropriated level.
  - The request will support all sites ready for design or construction at this time.
  - It also brings us close to the optimum program level we can effectively manage.
- Mr. Drayton's analysis is misleading as it attempts to compare one year's budget authority to other proposals for five year and total needs which have differing assumptions.
  - Total costs are large but uncertain due to the many variables involved.
  - Costs depend on the number of sites needing cleanup, the average Federal cost per site, the cost of complying with environmental statutes, the extent of responsible party involvement, and the amount of cost recoveries.
  - Consequently, a range of costs taking these variables into account, such as those provided in both EPA's and GAO's studies, is more accurate in assessing total needs.
- Using his charts on page 14, Mr. Drayton concludes it will take EPA 20 years to clean up all the Superfund sites.
  - However, we assume responsible parties will play an increasingly important role in the cleanup process as we pursue an aggressive enforcement policy.
  - Our projections indicate that cleanup for an NPL of approximately 1800 sites will take about eight to ten years more.
- Finally, Mr. Drayton states our cost recovery rate in our total needs estimate is an unrealistically high 50 percent.
  - In fact, our assumptions are that we will recover 30 percent of remedial expenses and 47 percent of our removal expenses.

ge 15) ASSERTION: "THE WASTEWATER TREATMENT CONSTRUCTION GRANTS PROPOSAL PUTS THE ACT'S CLEAN WATER OBJECTIVE AT GRAVE RISK".

-- The statement assumes that funding from other than Federal sources will not be available to meet future wastewater construction needs.

-- The chart accompanying the statement makes a misleading comparison between total nationwide needs for wastewater construction and EPA's proposed budget authority for the construction grants program.

EPA'S RESPONSE "THE COMPARISON BETWEEN TOTAL NEEDS AND EPA BUDGET AUTHORITY IS NOT VALID"

-- The figure of $118 billion referenced in the chart represents the total national need for wastewater treatment construction in 1982 based on projected year 2000 population figures and includes categories of projects not currently eligible for Federal funding.

-- These estimates are provided to Congress every two years and bear no relation to the budget authority requested by the Administration in any given year.

-- The Administration has proposed a four year phaseout of Federal funding for the program under the belief that the States must assume an increasing share of the funding responsibility for existing and future construction needs.

ASSERTION: The pesticides program "has had a bad history of ill - compliance from its beginning."

EPA RESPONSE:

- It is not clear what Mr. Drayton had in mind when he made this statement.
  - Does he mean the compliance of pesticide applicators with use requirements contained on the label?
- "Compliance rate" is not a term used in the pesticides program because the universe cannot be measured.
  - For example it is not possible to measure the number of times that pesticides are applied by farmers and commercial pest control operators each day or each year.
- Therefore, it is not possible to measure the pesticide program's "compliance rate."
- EPA has a very successful pesticide enforcement program which is almost totally delegated to the States. In 1984 the program conducted:
  - 2,057 producer establishment inspections
  - 17,617 use/reentry and experimental use observations
  - 14,692 marketplace investigations
  - 428 import inspections
  - 11,099 applicator license and record inspections, and
  - 8,906 pesticide dealer record inspections.
- In 1984, 4,656 notices of violation were issued plus 352 administrative orders. There were 175 instances of criminal litigation.

ASSERTION: We believe that the real need is a research budget of over $600 million.

EPA RESPONSE:

- The assertion is difficult to evaluate since there is no indication of how the $600 million figure was derived.

- Mr. Drayton assumes, inappropriately, that the benchmark for proper funding for EPA's research program should be the economic inflation rate in the United States.

- Additionally, the statement reflects the assumption that the programmatic need for EPA's research has remained essentially unchanged since 1981.

- One cannot compare the earlier research programs directly with the 1986 program. During these years there have been a number of significant programmatic changes in the research. Several programs have been completed. Several have been substantially changed and many new research responsibilities have been added.

    - To illustrate, the Energy program has dramatically changed. In the early 1980's this program emphasized the environmental effects of the growing synthetic fuels industry. In 1981, its research budget totalled $84 million. However, the synfuels industry did not prove to be as commercially viable as expected. By 1983, the Energy research program had been reduced to $27 million.

    - In the last few years the Energy program has again been increased substantially with the growth of the Acid Rain research effort. As a result the Energy program in 1986 totals $67 million.

- Several of the areas which Mr. Drayton states have required increased research since 1981 will receive increased resources in 1986:

    - The Agency's hazardous waste research program increases by $8 million.

    - Toxics and pesticides research increases by $14 million.

    - Monitoring research across the media increases by $7 million.

ASSERTION: It is almost irrelevant to say that a program has been cut or increased relative to last year, especially when you are dealing with major changes in the nature of the underlying task. The useful and honest question, instead, should be does it have the resources needed to do the job.

EPA RESPONSE:

- The 1986 budget will allow us to maintain the strong momentum we have established throughout the Agency's programs. It also reflects the strong priority we place on moving forward not only with Superfund but with some of our other priority programs, specifically the newly reauthorized RCRA program.
- In light of efforts in the President's overall budget to deal with the enormous deficit facing the country, the increased request for EPA demonstrates a clear recognition of both the importance of and support for a strong EPA.
- We believe this budget will provide the resources necessary to continue to successfully achieve our statutory objectives and to protect human health and the environment.
- The 1986 budget not only builds upon the foundation laid in the last two years, but it represents a significant expansion in areas where our responsibilities must be met with increased resources.

ASSERTION: We would estimate a total need for the operating budget on the order of $1.7 to $1.9 billion for 1986. I would point out that most of that compensates for inflation. You have to get to $1.7 billion to get back to where EPA was in 1981.

EPA RESPONSE:

- o Mr. Drayton persists in stating inappropriately that the proper bench mark to judge the adequacy of the Agency's 1986 budget is to adjust it for inflation and compare it with the 1981 budget.

- o The nature of the Federal budget process is such that a prior years budget is not simply carried forward and increased by the rate of inflation. In light of the enormous deficit facing the country, EPA receiving one of the largest percentage increases in the domestic budget is a clear indication of both the importance and support of a strong EPA.

- o Comparing the Agency's 1986 budget (as adjusted for inflation) to the 1981 budget is a meaningless exercise. As with every government Agency, programs mature and change over time. Since 1981 the Agency's programs and priorities have changed substantially. Programs have been completed or phased down. Among these changes:

  - The Agency's $13 million Noise program was eliminated by the Administration and Congress in FY 1983.

  - FY 1981 was intended to be the final year of the Agency's $34 million Section 208 Planning program.

  - The Agency's Energy program has changed dramatically. In the early 1980's this program emphasized the environmental effects of the growing synthetic fuels industry. In 1981, its research budget totalled $84 million. However, the synfuels industry never proved as commercially viable as expected. By 1983, the Energy research budget had been pared back to $27 million.

- o The Agency is making substantially increased investments in those programs where our responsibilities must be met with increased resources.

  - The Agency's investment in its RCRA program increases by $54 million over the 1985 enacted level. Together with additional resources reprogrammed to RCRA from within the Agency's 1985 budget, our investment in the RCRA program has nearly doubled.

  - Our Acid Rain effort will increase by 61 percent over 1985 to $60.5 million.
  - The 1986 budget provides important increases in our enforcement program, $34 million and 278 workyears above the 1985 enacted level.
  - The Agency's 1986 budget supports a strong partnership with State and local governments. The 1986 budget will allocate $278 million for grant assistance programs.

- By omitting the Superfund figures from the discussion, the Agency's $2.5 billion investment over the period FY 1981- FY 1986 is rendered irrelevant. The Superfund program is among the most important environmental challenges facing the country today.
- By deflating the Agency's 1986 budget to compare it with 1981 the underlying assumption is that everything purchased in 1981 yielded no benefit and must be completely repurchased in whole again in 1986. This analogy completely discounts the benefits gained from the intervening years of investments. This is especially true of investments in the Agency's research program.

ASSERTION: First, [the committee should] develop its own staff expertise on workload analysis and the institutional requirements for implementation. Second, supplement this capacity in the short term through GAO and, in the longer term, by persuading the Congressional Budget Office that it must go beyond its current chiefly incremental budget focus to develop true program workload capacity. Third, require EPA to provide regular quarterly implementation reports including workload analyses meeting your and CBO's standards. Fourth, hold OMB's feet to the same performance workload fire and require it to submit regular workload analyses; and require it to analyze comparative workloads across agencies at least for comparable tasks.

EPA RESPONSE:

- Analyses of "comparative workloads across agencies" would be difficult to use, at best.
  - The technical difficulties involved with defining "comparable tasks" would likely hinder such an ambitious undertaking.
  - The Agency feels it has already, through its own analyses, constructed a budget that effectively funds the tasks it must perform to meet its statutory and regulatory obligations.

ASSERTION: I make this point because EPA says you can't rely on workload analyses. It is very embarassing for them at the moment.

EPA RESPONSE:

- EPA does rely on workload analyses for budgeting and management.
  - Every year the Agency allocates almost 6,000 workyears to its Regional Offices using workload analysis.
  - Even our budgeting for Headquarters and grants employs a systematic approach that breaks the budget down into small activities for detailed examination.
  - The activities are displayed on the "Program Element Pricing Analysis" (Form BUD-2) submitted to OMB after having been used internally by Agency decision makers. The Committee received those displays when EPA delivered its OMB budget request.

ASSERTION: Wastewater treatment grants we had at somewhere between $2.6 and $4 billion. The range is here because there are policy choices involved in terms of rate of build-up. We think the work is certainly there and the capacity is there. We could go back to $4 billion in the first year.

EPA RESPONSE:

- While it is true that significant amounts of funds (approximately $35 billion) are needed to meet the construction needs for the nation's existing population, the Agency has made it quite clear that Federal funds were never intended to meet this need alone.
- Since 1972, the Federal government has made a major commitment to sewage treatment construction by obligating approximately $40 billion and spending approximately $30 billion under the construction grants program. It is now our position that the States should assume responsibility for funding both existing and future construction needs.
- The President's Budget for 1986 contains $2.4 billion for the program. In addition, the Administration will submit shortly a legislative proposal for phasing out the program over the next four years while at the same time maintaining our commitment to fund existing projects that have previously received Federal funds.

ASSERTION: The wastewater treatment construction grants proposal puts the Act's clean water objective at grave risk.

EPA RESPONSE:

- The comparison between total needs and EPA budget authority is not valid. The chart accompanying the statement makes a misleading comparison between total nationwide needs for wastewater construction and EPA's proposed budget authority for the construction grants program.
    - The figure of $118 billion referenced in the chart represents the total national need for wastewater treatment construction in 1982 based on projected year 2000 population figures and includes categories of projects not currently eligible for Federal funding.
    - These estimates are provided to Congress every two years and bear no relation to the budget authority requested by the Administration in any given year.
- The Administration has proposed a four-year phaseout of Federal funding for the program under the belief that the States must assume an increasing share of the funding responsibility for existing and future construction needs.

DRAYTON TESTIMONY

Page 49 lines 23, 24; Page 50 lines 2, 3

Assertion: For Superfund, we had said a range of $700 million absolute minimum, to over $2 billion.

EPA Response

The proposed FY 1986 Budget is $900 million and annual proposals for the succeeding 4 years range over $1.1 billion, annually. This is within the range stated by Mr. Drayton.

The $900 million Superfund budget request, supported by 1716 workyears, will adequately meet our program needs for FY 1986.

- It represents an increase of $280.0 million (+45%) and 359 workyears (+26%) over the 1985 appropriated level.
- The request will support all sites ready for design or construction at this time.
- It also brings us close to the program level we can effectively manage.

Mr. Drayton's analysis is also misleading, as it attempts to compare one year's budget authority to other proposals for five year and total needs which have differing assumptions.

- Total costs are large but uncertain due to the many variables involved.
- Costs depend on the number of sites needing cleanup, the average Federal cost per site, the cost of complying with environmental statutes, the extent of responsible party involvement, and the amount of cost recoveries.
- Consequently, a range of costs taking these variables into account, such as those provided in both EPA's and GAO's studies, is more accurate in assessing total needs.

Page 50 lines 24, 25;

Assertion: Assuming current legislation, we had a build-up which would go in 1987-88 to $3.4 billion.

EPA Response

$3.4 billion annually is well beyond even EPA's projection of the spending level proposed in HR 5640 as proposed last year. Given the current pipeline it would be virtually impossible to achieve a a spending rate of $3.4 billion in 1987.

Page 51 line 2

Assertion: Key assumption is management capacity in the role of States.

EPA Response

It is not clear from Mr. Drayton's testimony the exact nature of the assumption concerning management capacity in the role of the States. However, there are significant obstacles for both EPA and State Superfund programs in increasing the pace of the program enough to generate a $3.4 billion spending scenario by FY 1987. Just a few of these obstacles are: laboratory capacity; locating and hiring personnel; developing the organizational structure to accommodate the new personnel; developing and implementing the management structures needed to propel a program of tripled size; upgrading both in-house and Other-agency supporting functions (COE, DOJ, HHS, etc.); and simultaneously eliciting from the States an appropriate counter-response to maintain the State/Federal balance.

Page 51 line 9, 10, 11

Assertion: (Lautenberg: It has been suggested that $1.1 billion is about the level that is reasonably digestible.) Drayton: I think that depends very much on what year you are talking about. If you are talking about the next six months, that is more credible than if you are talking about a year and a half from now.

EPA Response

The current program pipeline will not support a spending level of $1.1 billion within the next six months. There are an insufficient number of remedial projects ready to proceed to the stage of construction within the next six months to accommodate a larger budget then the current FY 85 budget. The proposed out-year spending levels are expected to be sufficient to fund the preferred program level as supported by the Administration's Superfund proposal.

Page 51 line 12

Assertion: The country has launched and managed more complicated engineering projects.

EPA Response

This particular engineering project is highly complicated. Each site is individual with respect to its locational characteristics, waste mix, and likelihood of releases to the environment. In addition, the technology being used is in the very early stages of development, thus in many instances, we are faced with unknown and unforeseen problems in implementation of remedies at sites. These facts argue for careful scrutiny of the types of remedies selected to ensure the integrity of both the solution and the level of spending on the solution.

Page 51 line 13

Assertion: This program was designed as an emergency program.

EPA Response

Emergency situations are dealt with in the removal program. The Agency's highest priority is to stablize sites which pose threats to health or the environment. When these situations are recognized, they are dealt with immediately.

Environmental Safety

1519 New Hampshire Avenue, N.W. • Washington, D.C. 20036 • (202) 328-7903

May 6, 1985

The Honorable Robert Stafford,
Chairman
Environment and Public Works
U. S. Senate
Washington, D.C. 20510

Dear Senator Stafford:

Thank you for the opportunity to respond to the April 22, 1985, submission from the Environmental Protection Agency.

We will keep our responses brief. They supplement our fuller statement which is part of the hearing record of February 20, 1985.

Sincerely yours,

William Drayton By FAZ

William Drayton
Chair

WD:ct

Attachments

E.S. RESPONSE TO pp. 1, 2, 3: OPERATING BUDGET AND INFLATION

Inflation is a reality. Research materials and enforcement lab tests cost more now than they did in 1981. The Administration does not consider building its budget taking inflation into account "a meaningless exercise" in Defense; it insists on budget growth *above* inflation.

We agree that EPA's job has changed since 1981; it has grown enormously because of the Agency's new toxic responsibilities. They have, however, never been funded.

The needs of the base programs do change over time. There are a few areas, for example, much of the work to prepare effluent guidelines, where reductions make sense. We have included such reductions in our recommendations. However, the older programs' needs have on balance not been reduced. By way of example, Sulfur is an "old" problem. However, as the nation's growing concern with acid rain makes clear, we still have a great deal of work to do understanding and controlling toxics.

We agree, of course, that Superfund is important. In fact, the recent Office of Technology Assessment study of the Superfund program makes clear how inadequate the current budget is. However, like the $2.4 billion a year Wastewater Treatment Construction Grant program, which the Administration seeks to eliminate entirely over its current term, Superfund is a capital program and *by law* is to be treated separately from the operating budget. The operating budget represents EPA's core research, regulatory, and compliance activities and diverse private protection expenditures, overwhelmingly the bulk of environmental safety work in the country. The debate on EPA's budget has from the start properly, and as the law intends, focused on this essential core of the nation's protective effort.

E.S. RESPONSE TO p. 4: HAZARDOUS AIR POLLUTANTS

As STAPPA (State and Territorial Air Pollution Program Administrators) recently testified before the Committee on Science and Technology, U.S. House of Representatives on March 19, 1985: "The quantity and quality of information available for toxic air pollutants is grossly inadequate." EPA admits in their April 22 letter to Senator Stafford, they don't know "what fraction of the hazardous air pollution problem the agency has already addressed."

EPA's own internal study in 1984 on "the magnitude and nature of the air toxics problem in the United States" states that the number of cancer cases from 39 hazardous air pollutants may exceed 2,000 per year. These 39 pollutants assessed are but a small percent of the existing number of hazardous pollutants threatening our environment. For EPA to meet even its stated objectives will require substantial resources. However, the agency's modest request to OMB for $262 million for the entire air program was cut by $26 million — an amount still below 1981 levels — even in *nominal* dollars.

E.S. RESPONSE TO p. 5: MONITORING

There has been no substantial improvement in the quality or kind of information activity being conducted. The agency is beginning to address groundwater monitoring in the context of RCRA. EPA has included an increase of $1.3 million in the FY86 budget for expansion of the Toxic Air Monitoring System (TAMS) and development of other source and ambient monitoring methods. However, the increase proposed for TAMS will fund monitoring stations in only 8 to 11 urban areas and will monitor primarily for volatile organic compounds (VOCs). This network should be vastly expanded, both in the number of monitoring stations and in the number of pollutants being monitored.

Whereas there was very little data two years ago and even one year ago, there is very little data today on which to base broad judgments on the question of toxics in environmental media: air, land or water.

E.S. RESPONSE TO p. 8: WATER TOXIC PERMITS

Most of the almost 60,000 sources discharging directly into streams and lakes, let alone the 40,000 discharging into sewers that should be being controlled for the first time, have not been inspected let alone issued the permits implementing the new, chiefly toxics discharge limitations required by the amended Clean Water Act. Of the major high volume sources of water discharges regulated at state and Federal levels on August 1, 1984, roughly two-thirds held permits that have expired (35 percent) or are several to five years old. Because, as EPA acknowledges, singularly few permits limiting toxic discharges were written until recently, almost all these sources are operating without toxics limiting permits. Even those with relatively recent permits are unlikely to have such limits. The statistics are worse for smaller volume sources: 46 percent of all their permits have expired, and 70 percent have permits that either are old or have expired. As the kepone disaster, which was caused by a "minor" source, makes clear, small volume sources can be deadly. As of now, there are no resources in the budget to issue permits to these "minor" sources.

E.S. RESPONSE TO p. 9: TSCA

EPA's response serves to highlight the continuing sad state of TOSCA regulation. What EPA defines as "fast-track action" for many of the chemicals named has meant chemical advisories or hand-offs to OSHA.

Even the value of TSCA's information gathering activities is in doubt. What did EPA do with the information it had filed some years ago on methyl isocyanate? Did EPA inform India, West Virginia, Georgia?

E.S. RESPONSE TO p. 10: PESTICIDES

The registration process cited first by EPA means only that EPA is identifying what is known or not known about each pesticide ingredient. It does not mean that additional restrictions are added or that there has been any evaluation of health and safety considerations.

The call-in described by EPA is a continuation of a check list begun by EPA in 1975 but which was stopped abruptly in the face of the IBT revelations and other evidence of unreliable data found in the EPA files. This checklist, which entails no assessment of the data, should have been completed years ago.

E.S. RESPONSE TO pp. 12, 30, 31: SUPERFUND

Since our testimony, the Office of Technology Assessment (OTA) reported in March, 1985, the following:

> " While EPA estimates that about 2000 sites will reach the national priorities list, OTA estimates that 10,000 sites (or more) may require cleanup by Superfund. With Superfund's existing resources, it is not technically or economically possible to permanently clean up even 2,000 sites in less than seven decades."

OTA went on to estimate costs to Superfund in the neighborhood of $100 billion.

As for EPA's record to date...According to a report released on April 25, 1985, by the National Campaign against Toxic Hazards, 90% of the nation's most dangerous identified hazardous waste sites will not receive even initial long-term clean-up monies from Superfund before the program's funding cycle expires in October. This report follows on the heels of a March 29, 1985, GAO report (GAO/RCED-85-69) which found that: (1) the remedial program has completely cleaned up few sites; (2) the focus has been on preliminary steps such as inspections and studies; (3) EPA has had to take repeated removal actions at many NPL sites; and (4) non-NPL sites have received more attention than NPL sites.

E.S. RESPONSE TO p. 13: BUSINESS INVESTMENTS

The Administration tries to argue that the 38 percent decline in the level of real (inflation-adjusted) business investment in pollution abatement over the last four years compared to the remarkably constant level of such expenditures over the prior eight years is a natural phenomenom and neither a reflection of its policies or a cause for concern.

It argues, first, that the capital equipment was installed in the 1970s and won't need to be replaced until the next decade. If this were so, we would have seen a peak in the early seventies, a decline, and then a second peak after the statutory wave of 1976-78. Instead, the Commerce Department records a strikingly steady plateau over the full eight years before 1981. As Mr. Thomas's reply points out, there was a significant rise in abatement investment in the years leading up to this plateau as the country tightened its requirements.

The Administration backs this first argument up by claiming that pollution control has a useful life of 15 years. Even if this were theoretically so — and engineering and the old tax estimates vary widely — the actual life of much of this equipment is shortened by its harsh environment and commonly poor staffing and maintenance. EPA's analysis of the sorry state of continuous compliance underlines this last concern.

The Administration's investment wave theory cuts against it in any case. The wave of new environmental laws (chiefly the toxic control laws) enacted in the late 1970's reached the point of field implementation in the 1980s and should have led to a massive wave of new investment in the early 1980s — just the period when business investment in environmental safety plumeted.

The Administration seeks to defend this phenomenom by arguing that the new toxic laws don't require investments unlike the earlier "conventional" pollutants. This is a very strange argument indeed. Why should safeguarding against benzene or other hazardous air or water pollutants entail less expense than protecting the public from more easily handled, more familiar, gross pollutants like total suspended solids.

The Administration uses the case of the Superfund, arguing that this law does not lead to business investment in abatement. Clearly, to date, it has not. Precisely. That's part of the failure Environmental Safety is pointing up. The Office of Technology Assessment has just estimated that the country is faced with at least a $100 billion cleanup job. It also roundly criticized EPA for responding with short-term fixes — e.g. moving drums of waste from one area to another (whose safety has not been assured) — rather than recognizing that real cleanup is a complex, multi-year investment.

The Administration's response does not mention the most important single new toxics statute, RCRA. If the several hundred millions of tons of hazardous waste generated each year is to be transported, stored, and treated or disposed of safely, massive new investment will be required. Who is going to handle these waste up to standard unless very substantial capital investments are made?

Mr. Thomas also argues that the Toxic Substances Control Act and other chemical screening statutes don't require investment either. That's true as long as EPA continues not to screen, to regulate, or to implement rules. However, were it, for example, to limit human exposure to formaldehyde, scores of sectors in the economy would have to invest in safeguards and substitutes. The Administration is correct in pointing out that some of the investment in substitutes won't be captured as an abatement expenditure. But that same statistical leakage occured in the 1970s, viz the common response of switching fuels as a way of meeting standards.

The Administration's final arguement is that the 1980s have been a period of recession and that this fact accounts for much of the decline. However, during the 1970s pollution investment remained steady through recessions. Moreover, the recession is past, and America for the last several years has been in an expansion led by capital expenditures, which have been stimulated by new tax incentives. And new investment in abatement has in any case declined as a proportion of total investment.

The Administration also points out that interest rates have been high in the early 1980s. They have, and thus has discouraged investment to some degree. However, high interest rates also disguise part of the decline that has taken place in the physical quantity of control equipment. The higher the financial cost of a project, the smaller the proportion of what is recorded as investment in actual control equipment.

E.S. RESPONSE TO p. 16: NONCOMPLIANCE STUDIES

EPA feels that the GAO's finding of 82 percent noncompliance among the 531 major sources of water pollution examined is way too high. It attacks the GAO finding by citing its own "enforcement" data system. Some of the problems with EPA's sytems include:

* EPA has reduced the number of violations by counting only "significant" violations, one of the most flexible and ambiguous of concepts. A senior civil servant in the water program said to EPA's Inspector General's office, "The [significant noncompliance] criteria has been subjected to widely varying interpretation and damaged the credibility of the Agency's national compliance statistics."

* The EPA Inspector General also found that EPA personnel, properly following national policy, were further lowering noncompliance rates by giving noncomplying facilities "AOs [administrative orders] which contained interim discharge limits that matched or exceeded the effluent levels being discharged by a facility. Once the AO is issued, the facility is removed from the QNCR [quarterly noncompliance report]. This procedure produced a false picture of the success rate in complying with NPDES permit requirements, since the issuance of an AO does not in itself produce compliance." "[With the issuance of such an AO] the facility is then considered to be in compliance even though the final permit is still being violated." The Inspector General reports that responsible regional, Water, and General Counsel senior staff all acknowledged both this and the "significant noncompliance" problems as national in scope. In the words of the Inspector General, "The entire national procedure is in question."

* EPA's numbers do not count a discharger in violation if it was violating in the first two months of a quarter but was in compliance in the last month of the quarter.

* EPA's numbers do not include firms with enforceable interim permits.

* EPA isn't checking. It is so understaffed that it commonly does not even read the self-reporting compliance data sent in, let alone go out and check many sources directly. It assumes compliance until it learns to the contrary, which it is unlikely to do given its extreme understaffing. According to the June 15, 1985, Inside EPA, EPA told the Senate Appropriations Committee that "...it would take $203 million in additional appropriations to make up for lagging permitting and enforcement in the water program..." The biggest single requirement is for $103.2 million needed for "compliance inspections and monitoring of discharges."

- The many changes of reporting categories, of enforcement organization, and of policy over the last three years have made historical comparisons impossible.

Although EPA may be weary of defending the noncompliance rates, GAO must be just as weary of reporting them.

As recently as September 19, 1984, in hearing before the Subcommittee on Investigations and Oversight of the House Committee on Public Works and Transportation, the GAO reported:

> — Frequent and extensive noncompliance over a 45-month period cases reviewed in Louisiana.
>
> — Compliance reporting to top EPA management does not fully disclose the frequency and severity of noncompliance problems.
>
> — The EPA region's enforcement actions have little impact on abating noncompliance.

GAO goes on to state: "These findings are similar to those we have reported on over the past 6 years."

[List of GAO reports on NPDES permit compliance]

More Effective Action by the Environmental Protection Agency Needed to Enforce Industrial Compliance with Water Pollution Control Discharge Permits (CED-78-182, Oct. 17, 1982).

Costly Wastewater Treatment Plants Fail to Perform as Expected (CED-81-9, Nov. 14, 1980).

Wastewater Discharges Are Not Complying with EPA Pollution Control Permits (GAO/RCED-84-53, Dec. 2, 1983).

Many of the same objections apply to other areas, e.g. air, where parallel statistics are maintained.

The GAO sample of 531 major sources was measuring violations of "conventional" pollutant limitations and not toxics. In the air pollution areas EPA has failed even to decide whether or not to act on all but a handful of the substances listed in the 1970s as requiring quick review as possible hazardous air pollutants. If there is 82 percent noncompliance with established, familiar standards that once were enforced, noncompliance with the new, unfamiliar, technically difficult, predominantly unimplemented toxics safeguards can only be worse.

E.S. RESPONSE TO p. 17: RCRA

On Monday, April 22, 1985, In U.S. House of Representatives' Oversight Hearings conducted by the House Energy and Commerce subcommittee on Oversight and Investigations, EPA's Acting Assistant Administrator for Solid Waste and Emergency Response testified: "There is a serious lack of compliance on the part of the regulated community with the interim status groundwater monitoring requirements of the Resource Conservation and Recovery Act." Gene Lucero, head of enforcement for EPA, admitted that "the extent of massive noncompliance" means that the regulated community is "not taking EPA seriously."

E.S. RESPONSE TO p. 18: RCRA

The figures used by Environmental Safety are the same as those used by GAO — see a sample GAO document, *Illegal Disposal of Hazardous Waste: Difficult to Detect or Deter*, GAO/RCED-85-2, Feb. 22, 1985.

* * *

The 1984 Resource State Survey was for RCRA, not Superfund: it is entitled *State RCRA Program Resource Survey: Analysis of Responses*, July, 1984.

E.S. RESPONSE TO p. 21: BUDGET FIGURE REQUESTS

EPA misreports the 1981 appropriated figure for the Hazardous Waste Program; it is $151 million, not the FY82 level of $103 million which was misreported by EPAas the FY81 level.

In addition, we compare real dollars, adjusted for inflation, not nominal dollars. We stand by the figures in our testimony.

E.S. RESPONSE TO p. 25: STATE GRANTS

For the off-stated EPA goal of more and more delegation of authority to the states, a compliance grant of $386,000 per state to insure compliance in all the media is ludicrous.

E.S. RESPONSE TO pp. 26, 28, 29, 34: RESEARCH NEEDS

The budget proposal gives a sense of the change or shift in research priorities, with increased emphasis on acid rain research and decreased efforts on control technologies. Our Exhibit VIII shows the historical pattern of funding for EPA's Office of Research and Development (ORD) in constant 1972 dollars, including both intramural and extramural research conducted by the Agency. This exhibit shows that the 1986 budget proposal does indeed increase resources roughly to the levels allocated during 1972 through 1974 and substantially above the nadir in 1984. In part, this proposed increase and that in the FY '85 budget reflect outside presure brought to bear on the Administration, which last year resulted in a Congressionally mandated increase in resources to the Agency of $35 million, above the Administration's request, for the research program.

The President's 1986 proposal, while suggesting some substantial increases in some research areas, calls for some major reductions in others. The largest of these increases occurs in the area of acid rain research. Here, an additional $30 million, to constitute an Agency total of slightly over $60 million, will make EPA's acid rain research nearly three-quarters of the federal effort directed toward acid rain. The 1986 budget calls for this additional effort to be spent in three specific areas: a survey and study of the effects of acidic deposition on lakes, increased resources for research in the area of effects on trees, and a smaller amount toward the installation of a monitoring program for dry deposition of acidic materials.

In other areas, the program for hazardous waste research would increase by about $8 million or 20 percent. These funds will almost exclusively be directed toward extramural support; the majority of them will support improvements and development in monitoring methodology at hazardous waste facilities. In addition, there will be a small amount of effort spent on pollutant transformation and transport around and from hazardous waste sites, and a small increase in resources to develop alternate hazardous waste treatment technologies.

In the area of toxic substances and pesticides, an increase of about $14 million, nearly 40 percent, is proposed, to a total of approximately $50 million. These funds would be directed toward: improving ecological risk assessment for pesticides; improving risk assessment of, and environmental control technology for, genetically-engineered organisms; and increasing research on human exposure to toxic chemicals, health effects of biotechnology, and research on toxics and reproductivity.

The fact that the total of all these individual funding increases is larger than the overall increase in research funding indicates that money has been reprogrammed from other areas into these specific categories. There are four particular areas we would like to mention that have been reduced as a result of this reprogramming: research on non-ionizing radiation, research on the limestone-injected multistage burner (LIMB), research on indoor air pollution, and funding for extramural grants and Centers of Excellence. Each of these reprogrammings raises significant issues.

In the case of non-ionizing radiation, the program (presently funded at a modest $2 million) will essentially be eliminated within EPA, thus ending roughly 25 percent of the national research effort on the health effects of non-ionizing radiation. Given the rapid expansion in our society in the use of devices that produce non-ionizing radiation (VCRs, microwave ovens, microwave towers), eliminating research on their potential health effects may well cause problems in the future when and if such issues need to be addressed. While at the moment our available research evidence does not indicate any significant adverse health effects, it's quite clear that the proliferation of these sources of non-ionizing radiation is occasioning public concern, and it seems that the only credible way to assure the public of their safety is to maintain a research program, even at a modest level, that identifies and addresses this issue.

Second, this budget proposal reflects, essentially, the closing of the LIMB research program in 1986. As proposed, the program will result in a hoped-for successful demonstration, by the summer of 1988, of control technology to reduce nitrogen and sulfur oxides emissions from the type of boiler that represents approximately 50 percent of the boilers presently in use (i.e., those that are tangible-fired) now in use, no research will apparently be conducted to address the applicability of the same technology — an elimination that, in the context of requests for additional research on causes of and controls for acid rain, raises some significant questions as to rationale.

Third, research on indoor air pollution has been zeroed out. It appears that, if any further work is to be done in this area, Congress will have to mandate it specifically. While it is true that indoor air pollution does not come under the rubric of the Clean Air Act per se, nonetheless any consideration of the potential for exposure to toxins in the environment where most of us spend most of our lives makes it ludicrous to refuse even to do any research on this issue.

Fourth, EPA's grants program and Centers of Excellence program will be further reduced from previous years. Such a reduction, particularly for those Centers of Excellence already funded at a substantially lower level per institution than many observers feel is viable, will call into question whether some of those institutions ought not to be dropped from the program.

And finally, cuts are proposed in the salaries and expenses (S&E) portion of the ORD budget. This account, which is approximately $99 million out of the total research budget of nearly $325 million, has been reduced four percent from FY'85 levels. It is this S&E account which supports all of the Agency's intramural research. These funds keep the laboratories open, feed the rats, support the actual experiments. As that money is reduced — even as the need for S&E is heightened by the amount of funding necessary to support a slightly increasing staff — the internal research program will be severely curtailed.

The problem of flexibility to transfer funds among accounts within the Agency's research budget also needs to be addressed. The reduction in the S&E account will significantly reduce the ability of the Agency's scientists to conduct any intramural research. From time to time when equipment fails, the inability to transfer funds from the "R&D" (i.e., the extramural research account) to the S&E account causes that equipment to remain non-functional until funds for its repair can be included in the next budget year. There simply is not enough money in the S&E account to cover repairs and routine laboratory costs after salaries, etc., have been paid. It is penny-wise and pound-foolish to maintain the current artificial distinction that monies that are spent for "expenses" (i.e., maintaining laboratory animals, feed, equipment, solvents that allow experiments to be conducted) are not "reserach funds." It certainly is true that one has to keep a careful accounting of funds and how they are spent, but it is also true that — if the idea is to maintain a distinction between the monies that are spent to manage the research program and the monies that are spent on actual research — a good bit of the S&E account is spent on the latter (or at least it should be and has been historically.)

. RESPONSE TO pp. 32, 40, 41: CONSTRUCTION GRANTS

Our exhibits provide a context within which to evaluate the Administration's proposal.

The Congress, in actions subsequent to the February hearings, has shown that it does not subscribe to the Administration's drastic phase-out proposal.

E.S. RESPONSE TO pp. 30, 42-44: SUPERFUND: CAPABILITY OF EPA TO BUILD-UP

A recent, April 2, 1985, study by the Congressional Research Service entitled "Capacity To Expand the Superfund: Labs, Contractors, and Qualified Personnel" reported that "available facilities and personnel could support a substantial expansion of the Superfund program over the next five years."

Principal findings included the following:

1. "Current laboratory capacity could support a substantial increase in Superfund remedial actions beginning in FY 1987;

2. There is general agreement that there will not be a shortage of firms to undertake the design and construction of remedial actions;

3. With few exceptions, there appears to be ample scientific and engineering personnel to carry out an expanded Superfund program; and

4. It is not clear whether the adequacy of waste treatment and disposal capacity will constrain the growth of Superfund spending."

FISCAL YEAR 1986 BUDGET REVIEW

THURSDAY, MARCH 7, 1985

U.S. Senate,
Committee on Environment and Public Works,
Washington, DC.

The committee met, pursuant to notice, at 10:16 a.m., in room SD-406, Dirksen Senate Office Building, Hon. Robert T. Stafford (chairman of the committee) presiding.

Present: Senators Stafford, Chafee, Simpson, and Mitchell.

Nuclear Regulatory Commission

Senator **Stafford**. The Committee on Environment and Public Works will please come to order.

We are very pleased this morning to have the members of the Nuclear Regulatory Commission with us to discuss the Commission's budget. I don't personally have any opening statement to make except to welcome the members of the Commission and express appreciation from me as a private citizen and as chairman of the committee for your work on the Commission. Having said that, I will yield to the chairman of the subcommittee who has handled this matter with, I think, great distinction for many years, Al Simpson.

OPENING STATEMENT OF HON. ALAN K. SIMPSON, U.S. SENATOR FROM THE STATE OF WYOMING

Senator **Simpson**. Mr. Chairman, if that is true, it is because of your support and assistance to me, and I deeply appreciate that. You have given me the ability to function and do the job and backed me to the hilt, and I deeply appreciate it, very much so.

I do apologize for rescheduling. I got caught in the middle of the farm bill and may still be caught in the middle of the farm bill, but at least we are going on. It can't happen today. Surely, it can't happen today, but I thank you for your understanding on that.

We do want to hear from you on the Commission's budget request for fiscal years 1986 and 1987. There are two purposes for the hearing. We are required to make a recommendation to the Budget Committee by March 15 of an overall funding level for the Commission for the fiscal year 1986. Accordingly, this hearing will assist us in gathering information on the agency's budget request and see that we fulfill that responsibility.

Then, too, it gives us this opportunity to consider the details of the 1986-87 request in order that we might proceed with consideration of our customary biannual authorization legislation for the Commission for those 2 fiscal years.

This budget is $429 million for fiscal year 1986, a decrease of $19.2 million, or 4 percent, from the amount appropriated by Congress in fiscal year 1985. In fiscal year 1987 the Commission has requested $460 million, an increase of about 7 percent in the amount requested for fiscal year 1986. From a staffing side, the Commission remains essentially level from 1985 through 1987 at just under 3,500 staff.

We have, I think, in the committee encouraged the Commission to pursue all reasonable efforts to achieve economies in its operation and to ensure that its resources are managed as effectively as possible, but this year, more so than ever before, we must and shall and are coming to grips with the Federal deficit, and we will see where that exercise goes, but certainly everyone including the Commission will be called upon in that effort.

I guess the distinction is, of course, that the Commission exercises an essential public health and safety responsibility which is always carefully observed by the public. The regulation of this Nation's commercial nuclear power industry is a highly emotional and taxing situation for you, I know. But this committee, as the NRC's authorizing committee, has a responsibility to be certain that adequate funds are authorized to carry out the Commission's mission and, accordingly, we will be particularly interested in hearing your views on whether the budget in this request form enables the Commission to perform its essential function.

We appreciate having four of the Commissioners here. I understand Commissioner Roberts is ill. I want to welcome you here. I have had the opportunity to visit with each of you over the past 6 weeks concerning your individual views. That is something I started when I was ranking minority member of the subcommittee. Your views were received, spirited as they were, and that has been most helpful for me. I do welcome you here and welcome members of the NRC's very able senior staff who are here and present, too.

Chairman Palladino, I welcome you. You might introduce any of those who are accompanying you other than the Commissioners. You may then proceed with your statement. We would appreciate if the statements that you and your fellow Commissioners would like to make be limited to 5 to 7 minutes each. Your detailed statements, of course, will be made part of the hearing record.

With that, you may proceed. We are pleased to have you here.

I want to welcome Senator Chafee to the hearing. We always appreciate his good counsel and direction as a member of the committee.

STATEMENT OF NUNZIO J. PALLADINO, CHAIRMAN, NUCLEAR REGULATORY COMMISSION; ACCOMPANIED BY: JAMES K. ASSELSTINE, COMMISSIONER; FREDERICK M. BERNTHAL, COMMISSIONER; LANDO W. ZECH, JR., COMMISSIONER; WILLIAM J. DIRCKS, EXECUTIVE DIRECTOR FOR OPERATIONS; HAROLD R. DENTON, DIRECTOR, OFFICE OF NUCLEAR REACTOR REGULATION; JAMES M. TAYLOR, DIRECTOR, OFFICE OF INSPECTION AND ENFORCEMENT; JOHN G. DAVIS, DIRECTOR, OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS; AND ROBERT B. MINOGUE, DIRECTOR, OFFICE OF NUCLEAR REGULATORY RESEARCH AND LEARNED W. BARRY, CONTROLLER, AND DIRECTOR OF RESOURCE MANAGEMENT

Mr. PALLADINO. Mr. Chairman and members of the committee, the Commission appears before you today to discuss the fiscal year 1986 budget request. With me today are three of my fellow Commissioners. As you indicated, Commissioner Roberts is ill today, and he expresses his regrets at not being able to be here. We also have with us the Executive Director for Operations and the Directors of the principal offices of the Commission.

With your permission, I would like to make a brief oral presentation and submit my prepared statement for the record.

Senator SIMPSON. Without objection.

Mr. PALLADINO. I will begin by saying that this is the first time that the budget request for NRC resources for the next fiscal year is for less than the amount appropriated for the current fiscal year. As you know, we asked OMB to increase our fiscal year 1986 budget. The additional resources were for programs that the Commission believes are important to our regulatory mission. While we recognize that there are strong fiscal pressures created by the Federal deficit, we must make it clear that within the OMB approved amount for fiscal year 1986, the NRC will be able to carry out only its most essential programs.

The total budget request, as you pointed out, is for $429 million. This is approximately $20 million below our fiscal year 1985 program. The reduced amount anticipates that the administration's proposed 5-percent pay cut will be enacted by Congress. If it is not, we will be short $8.6 million.

A chart showing a decline in terms of constant dollars in our research budget over the past 10 years and a table summarizing resources for major budget categories are appended to my statement for the committee's convenient reference. At this time, I would simply like to highlight two concerns of the Commission with regard to the budget that are worthy of special emphasis.

The first is our concern that the NRC budget cuts are being considered under the assumption that in the absence of new plant orders, the resources used to license plants now in the pipeline will no longer be needed. This is just not the case. NRC resources are required for a nuclear power plant from the time a license application is submitted until after it is decommissioned.

For example, licensing actions are frequently needed for operating plants to correct inadequacies identified from operating experience and the resolution of safety issues. Unanticipated events must be reviewed for safety significance. Operators must be examined and inspections must be conducted. These are some of the many regulatory activities that must be performed on a continuing basis after a plant receives its operating license.

As new plants are licensed, the resources used for licensing are being shifted in our budget to activities necessary for assuring safe plant operation. If our budget were to be reduced further to the point where we would have no other choice but to cut back some of the operational activities that have been strengthened in recent years, safety could be adversely impacted.

I would emphasize to the committee that the NRC has important regulatory functions in other areas as well, such as safeguards, exports, transportation, materials licensing, and I would point out that there are approximately 9,000 active materials licenses. In addition, we must give attention to uranium recovery and a wide spectrum of radioactive waste management activities. These mandatory activities must continue and require NRC resources apart from NRC's licensing responsibilities for operating plants.

Our second major concern is the extent to which we have had to cut back our research program over the years. In fiscal year 1986, research funding will be down more than $85 million from fiscal year 1981, about a 40-percent reduction. In terms of constant dollars, our research budget will be somewhat lower in fiscal year 1986 than it was when the agency was formed 10 years ago.

We have had to reduce research funds because the magnitude of the budget cuts we have taken, coupled with the requirement to absorb pay raises and other increased costs, has left us essentially no other choice. To stay current with our day-to-day regulatory responsibilities, research has had to absorb the major portion of our cutbacks.

A stable, continuing program of research is essential for the Commission to carry out its responsibilities. Our research program provides us with the kind of sound technical information we need to deal effectively with emerging complex technical issues. When information developed by our research program is lacking, we often have to be overly conservative to compensate for our lack of knowledge, placing an unnecessary burden on the industry and the public.

Absent needed safety information developed by our own research program, we could be forced into a very undesirable regulatory posture, one that could require the NRC to either shut down some operating facilities or delay licensing others until after the necessary technical data have been obtained to resolve the identified safety issues. Either alternative would be more costly to the public than the adequate funding of our research program.

For example, the availability of NRC research materials and thermal hydraulics coupled with risk analysis methods for pressurized thermal shock contributed to a decision that avoided the unnecessary shutdown of several reactors. In another instance involving cracks in boiling water reactor pipes, available NRC research results made it possible for us to make prompt technical decisions that precluded long plant shutdowns.

Tight fiscal constraints make it imperative that decisive action be taken to improve NRC's effectiveness and efficiency. In this regard, I want now to address the continuing problem of NRC building consolidation and then to express some personal views on the subject of the NRC Chairman's authority.

As you know, for 10 years we have been hindered by the expensive and time consuming process of traveling back and forth between our various locations. We continue to work with GSA to find a way that would permit us to consolidate. However, consolidation has not yet materialized. Thus, we strongly recommend that the committee mandate consolidation not later than the end of fiscal year 1986 in a single location in the District of Columbia or in Bethesda, MD. The mandate should include whatever funding provisions are necessary to achieve full consolidation by that time.

Before closing, I would like to comment briefly on a subject of the NRC Chairman's authority. My remarks are personal in nature and do not necessarily represent the collective views of the Commission.

On January 23, 1985, I reported to the House Appropriations Subcommittee on Energy and Water Development on what I think should be done to improve the current Commission structure. That report also addressed limitations on the conduct of Commission business as a result of the Sunshine Act and ex parte considerations. With your permission, I would like to have my report be made a part of the record. I especially urge you to carefully consider the merits of the proposed single administrator concept. I further urge you to support legislation along this line. In my opinion, it would be one of the most important actions the Congress could take to make the Agency function more effectively and efficiently.

In closing, let me emphasize that the budget request submitted to Congress represents a minimum program in the view of the Commission. We urge your strong support for the full amount of our request. With respect to fiscal year 1987, we are requesting an increase of about $30 million for a total of $460 million. As our detailed budget request indicates, this amount is not supported by OMB. We will need to resolve this matter in the near future.

This completes my oral presentation, Mr. Chairman. At this time, we would be pleased to answer any questions you may have.

Senator Stafford. Thank you, Mr. Chairman. Without objection, your request that your report be made a part of the record will be granted. (See p. 315.)

Senator Stafford. We have no formal statements, I guess, from your colleagues, but this would be a good time if any of them wish to make a brief oral statement for them to do so before we get to questions.

Mr. Asselstine.

STATEMENT OF JAMES K. ASSELSTINE, COMMISSIONER, NUCLEAR REGULATORY COMMISSION

Mr. Asselstine. Mr. Chairman, I have just a few comments I would like to make on three subjects, the budget, the Commission's licensing reform proposal that was recently submitted to the Congress, and the need, in my view, for a statutory inspector general for the Agency.

Let me start with just a few comments on the budget. As the chairman noted, we have had a reduction in our budget request this year. This is a continuing decline over the past couple of years. Our fiscal year 1984 budget was $469 million. Our current budget request was for $460 million, and this was reduced to about $450 million. The request that we now have in for fiscal year 1986 is $429 million, and that request was substantially reduced by the Office of Management and Budget.

My own view is that the letter that was sent to Mr. Stockman on December 20 of last year is still the correct position in terms of what the Commission really needs to do its job for fiscal year 1986. I would like to just read the one paragraph that I think summarizes the position that all of us had at that time:

> The Commission continues to believe that its fiscal year 1986 budget proposal represents a reasonable and prudent program for nuclear regulation in this country. That proposal would provide for the effective discharge of the Commission's essential health and safety responsibilities and for a number of initiatives to enable the Commission to improve its operations in the future. These initiatives would permit the Commission to develop better regulatory approaches for existing licensees and to prepare for future developments in the industry, such as nuclear power plant standardization. However, the Commission recognizes that the present budget situation may not permit all of these initiatives. In recognition of this fact, the Commission is prepared to support a budget proposal of $460 million and 3500 FTE. The Commission believes that these resources are necessary to carry out its health and safety responsibilities and its most urgently needed initiatives. Accordingly, the Commission believes that the budget request to the Congress must include at least these amounts.

Now, the request you have before you is about $30 million short of that amount that the Commission indicated back in December really was the minimum that we needed.

Senator MITCHELL. Mr. Chairman, may I interrupt and ask a question at this point?

Senator STAFFORD. Certainly, although, again, we were planning to keep questions until the statements are completed.

Senator MITCHELL. Then I will wait. That is all right.

Senator STAFFORD. All right.

Mr. ASSELSTINE. So, I guess my first point is I really think that the $460 million is the right amount. It is the amount that all of us agreed was the right amount just a couple of months ago. The only reason, I think, that the proposal you have before you is substantially lower than that is because OMB refused to respond to our request.

The second point I would like to make on the budget is, given the reduction in the budget to $429 million, the Commission had to make some tough choices on how to allocate that lower amount of money. In my view, the Commission has its priorities misplaced in allocating those lower amounts. We have decided to continue funding some programs that really are aimed at reducing conservatisms in our safety requirements and in providing economic benefits to the industry. We have programs ongoing that would have as their objective reducing the degree of conservatism in some of our safety requirements. We have programs underway that have as their objective increasing the power level of the plants that we have now.

While I am not opposed to doing that kind of work, it seems to me that if you have substantially reduced level of funding, you have to decide whether to allocate money in that direction or toward some of the real safety problems that we face with some of the existing plants. My concern with the Commission's proposal is that we made the choice in favor of the former category of programs and against the latter category.

I would like to talk briefly about a few of the programs where the funding would either be eliminated in fiscal year 1986 or substantially reduced under the Commission's proposal.

In the nuclear reactor regulation area, we will not be funding in fiscal year 1986 the Integrated Safety Assessment Program. That is a new program. It is one that I was quite excited about because it represents the first effort by the agency to take an overall integrated look at safety on a plant-by-plant basis to try to put all of the outstanding safety issues or substantially all of those issues on the table at one time and look at what needs to be done for that particular plant to resolve all of those issues. I thought that that was an important step forward. We started that program in this fiscal year. Unfortunately, we are going to have to stop in 1986 under the proposal that you now have with the way the Commission proposes to allocate its funds.

The second area where we are eliminating funding to deal with medium priority generic safety issues, the medium priority issues that came out of the Three Mile Island accident and also the medium priority human factors issues. I think some of those issues still deserve funding.

For example, one of those efforts is aimed at component reliability. We know there are component reliability problems in the industry now. I think that is an effort that ought to be continued.

We are deferring work on our quality assurance initiatives to address some of the problems that we have seen in the construction of plants in the past few years. And we are reducing efforts on regional based inspections to deal with questions like maintenance, surveillance testing, quality assurance, and fire protection. All of those are significant issues and problem areas. I think we ought to continue the funding that we had anticipated in all of those areas.

Finally, we are reducing inspections on problem plants and following up on allegations. One of the concerns that I have about the industry now is the widespread difference in performance among the different utilities. I think one of the best things we can do is concentrate our efforts and attention on the problem plants to bring them up to an acceptable level of performance. The direction that the Commission is going with this budget request, I think, is in the wrong direction.

I will talk briefly about the waste program because that is another area where there will be substantial reductions in funding under the way the Commission has allocated the fiscal year 1986 budget request. We have indicated that under the present request that you have before you now, we might end up delaying DOE's high level waste repository program by as much as 6 months. We will delay the ability to finalize some of our regulatory rules for the repository program.

In the area of the crystalline rock sites, the granite sites in particular, we won't be able to have essentially any oversight over the DOE site screening and selection processing in fiscal year 1986 as a result of the request before you now. I think that is unfortunate. I think we ought to be doing that.

Finally, we will be reducing at least to a minimum effort our ability to try to resolve some of the differences we have with the Environmental Protection Agency in the regulation of mill tailings, low level waste, and also high level waste.

Now, the Commission is presently considering a request for legislation that would allow us to tap into the high level waste fund and reimburse us for our expenses in this area, but we haven't reached a decision on that yet. That may ease the burden in the waste area, but absent that, I think this is an area that really deserves close scrutiny in terms of the reductions that are included in our present proposal.

I would just make a couple of brief comments about the Commission's licensing reform proposal that was submitted to you fairly recently. I think the bill is, in fact, quite different from the bill submitted by the Commission during the last Congress. Some of the differences in the bill led me to conclude that I could not support the current Commission proposal. Let me just highlight very briefly a few of the concerns that I have.

First, the Commission has lowered the standard for issuing a combined construction permit and operating licenses from the standard that was included in our previous legislative proposal which I supported. Second, the Commission has eliminated required safety reviews prior to operation for a combined construction permit and operating license. Third, the Commission, I think, has substantially reduced the opportunities for members of the public and for States to obtain hearings on issues that can only be resolved prior to operation of the plant. Finally, the Commission has chosen to impose a statutory backfitting standard in the case of a combined construction permit and operating license—something the Commission expressly rejected 2 years ago.

In my view, those four changes to the bill make the bill unacceptable. While I am in favor of legislation to encourage standardization and to address some of the mistakes that have been made in the past, it does seem to me that this legislation goes in the wrong direction and it needs to be modified before it is acted upon.

The final point I wanted to mention very briefly is the question of an independent inspector general. That question came up as part of the authorization process, I think, particularly on the House side the last time around. At the time, the Commission had expressed the view that it was not in favor of a statutory inspector general. My own view on that has changed. I think now that there should be a statutory inspector general in this Agency, and I have reached that conclusion for two reasons.

First, as I think probably all of you know, there is an ongoing grand jury proceeding to investigate whether senior members of this Agency committed crimes; or were guilty of wrongdoing in the performance of their responsibilities. That grand jury proceeding, in my view, is unprecedented and it reflects a basic breakdown of our own internal policing mechanism within the Agency. That is the first reason why I think it would be useful to have a statutory inspector general, because I think that could help avoid this kind of situation in the future.

The second reason is that, while I am much happier with our own internal watch dog group, our Office of Inspector and Auditor, now than I was a year or two ago, I still think that there is some subtle intimidation and some subtle unwillingness on their part to thoroughly explore possible wrongdoing by personnel within the agency. I think you can help avoid that situation by having a strong statutory base and a statutorially supported inspector general within the Agency to act as our own internal watchdog. I think the benefits that we would get from that in avoiding the kind of situation we are in now with the grand jury proceeding warrant careful consideration.

Those are the only comments I would like to make, Mr. Chairman.

Senator STAFFORD. Thank you very much, Mr. Asselstine.

Mr. Bernthal, do you have any comments you would like to make?

STATEMENT OF FREDERICK M. BERNTHAL, COMMISSIONER, NUCLEAR REGULATORY COMMISSION

Mr. BERNTHAL. Yes, there are a few comments I would like to make, Mr. Chairman.

First of all, on the budget, I agree with the thrust of what Commissioner Asselstine has said. However, I think that OMB did respond to the Commission. In fact, the initial proposed cuts that came over to us were considerably larger, I think, as everyone knows, than the final number that we ended up with. It is true, however, that no one in this room should be under the illusion that $429 million, absent these broad agencywide cuts, first of all, the 5-percent salary cut and secondly the 10-percent overall cuts in administrative cost, that absent those cuts becoming a matter of law and appropriation the number that we have would be adequate. The number that you have in front of you assumes those cuts will be made. If they are not made, as the Chairman has already pointed out and I would like to reemphasize, then we are simply going to come up short in an amount that is equivalent to those presumed salary cuts.

Senator CHAFEE. Well, suppose you get the $8.6 back in. That is the pay cut.

Mr. BERNTHAL. That is the pay cut.

Senator CHAFEE. Where are you then? Would that be about a 10-percent?

Mr. BERNTHAL. It is 10 percent of all administrative costs. An $8 million or $9 million restoration, I guess, puts us back at roughly an $11 or $12 million overall cut, something like that. I would just emphasize, however, that I realize that you have been hearing a lot of this in the last few days and weeks, but——

Senator CHAFEE. We haven't had anybody come before us yet who recommended a cut.

Mr. BERNTHAL. I am sure.

Senator CHAFEE. And although they all preface their remarks by wishing to reduce the Federal deficit, I am not even sure you got that far, did you?

Mr. BERNTHAL. I would just like to make one plea or perhaps point out one fact, and that is that this Agency, unfortunately in a period that is a period of crisis in the Federal deficit, also has its own crisis. Crisis, maybe is too strong a word. It has its own exigencies. We have something like 20 nuclear powerplants we are expected to license in the next 2 years. That is essentially unprecedented for this agency. Needless to say, we have a lot of work to do in the next 2 years, and it just strikes me that for this agency, these cuts come at an entirely inappropriate time.

I think that really is behind the message that Commissioner Asselstine was trying to present. I support the continuation of the integrated safety assessment program. Unfortunately, we are having to make choices right now that we shouldn't have to make. I might say that one of the chief executive officers, or the chief executive officer of Northeast Utilities, I believe, Mr. Bill Counsel, has argued very strongly that that program should be restored. This is the CEO of a utility, now, arguing that the NRC should restore the integrated safety assessment program, because they have gone down the path as one of our trial four utilities and they want to see us follow through on it.

Let me make one or two comments with respect to the licensing reform package that was submitted here. I would just say that it was intended to be different from last year. The emphasis was intended to be rather narrow. The focus was supposed to be narrowed primarily to those elements that would facilitate our moving ahead with a program of standardization. In fact, I think you will see that in the title of that legislation that was submitted.

The one element of that package which I have to say I am a bit confused about because I was under the impression the Commission had approved and we need to straighten this point out is one of those that Commissioner Asselstine raised. That is whether the Commission should make a final determination before granting an operating license that all of the required procedures and inspections have been carried out.

I flatly think that we should. We will. We always have, and I am sure that we are not going to put into autopilot the final determination that a plant should prepare for operation at full power.

Lastly, I should comment briefly on the need for an inspector general. I don't think that this Commission or this agency should necessarily be stampeded into actions by the fact that there is indeed a grand jury investigation going on. I do not concur at all in the breakdown theory of our internal policing activities. I think the implication that there is intimidation, implicit or otherwise, of our current very capable new head of our Office of Inspection and Audit does her a disservice. I think that Ms. Connolly knows what she is about. She feels, in my judgment, and she can speak for herself if you wish to ask her. That she has a free hand to do what is necessary in policing this agency.

That is all I have to say right now.

Senator **Stafford**. Thank you, Mr. Bernthal.

Admiral Zech, do you have any comments you wish to make?

STATEMENT OF LANDO W. ZECH, JR., COMMISSIONER, NUCLEAR REGULATORY COMMISSION

Admiral **Zech**. I don't have any prepared statement, Mr. Chairman, but I will make a few brief comments, if I may.

Senator STAFFORD. Certainly.

Admiral ZECH. First of all, I support the budget as submitted. Our budget in this current fiscal year, if I recall correctly, is for $449 million. The budget that we are requesting for fiscal year 1986 is for $429 million. I think we have considered the deficit. We are coming in for less money in 1986 than we did in 1985. It is my judgment that the budget should be sufficient for us to carry out our mission. We have tightened our belts. We have made some hard choices. None of us is completely positive that we have made exactly the right choices. We think we have; I think we have. Research money is about as tight as it ought to be, maybe a little too tight, but in my judgment, we have sufficient funds that we are requesting for this coming year.

As far as the legislative proposal we have submitted, I think it is an excellent proposal. It does exactly what we should be doing in our agency, in my judgment. It has come through a process of modification from last year's proposal. I think it is a giant step forward. I think it will provide for standardization and provide for the protection of the public health and safety which it certainly should provide for. I think that legislative proposal is an excellent one.

As far as the statutory IG is concerned, I don't think that is necessary at all. I would agree with Commissioner Bernthal's comments that our current Office of Inspections and Audit is doing an outstanding job. I think we should give her the time to settle into the job a little more and let her make a recommendation to us before we make any recommendation to this committee.

That is all I have, Mr. Chairman.

Senator STAFFORD. Thank you very much, Admiral. Your brevity of speech fits in very well with somebody who comes from Cal Coolidge's country.

Admiral ZECH. Thank you, sir.

Senator STAFFORD. Senator Mitchell, you had a question that occurred to you during, I think, Mr. Asselstine's statement. This would be an appropriate time for you to ask it.

Senator MITCHELL. Mr. Chairman, I have several questions. I was simply not aware of the procedure at that time. I will be very happy to defer and take my turn in the order that you determine.

Senator STAFFORD. All right. If that is the case, I would suggest, gentlemen, that we go on a 10-minute per member first round, and the Chair will yield to Senator Simpson.

Senator SIMPSON. Thank you very much. Thank you, George. Thank you, Mr. Chairman.

I have observed this budget exercise for 6 years. Again, we find the office of research absorbing the greatest share of the reduction in resources. I gather from the testimony that we seem to have reached a point in the research budget where it has been cut so significantly that no one really questions the basic value of the remaining initiatives that the office has undertaken. In other words, most people apparently pretty much agree that this work is essential for the NRC to carry out its regulatory mission.

Would you please, expand on that, if you can? Is that where we are?

Mr. PALLADINO. I didn't get the question.

Senator **Simpson**. The research budget has been cut so much that are we left at the point that there is absolutely nothing that the basic value of everything else is unquestionable? Is that where we are?

Mr. **Palladino**. I believe we have reduced the budget to a degree where we are beginning to cut into the muscle of some of our very important research programs. As I indicated, as a result, when we need data, if it is not available, we are going to have to take time to have that data obtained, if necessary, or make very conservative assumptions if the data cannot be obtained in a particular timeframe.

Senator **Simpson**. You mentioned two programs, the pressurized thermal shock and the pipe cracking in boiling water types of reactors. The research that was performed on those subjects was of measurable assistance to the utilities, because it kept the NRC from shutting down the plant. How much of the NRC's research is of that nature where it provides a direct benefit to someone, perhaps a utility? Where that is the case, does the Commission have the authority to request the beneficiary to contribute in the sharing of the cost?

Mr. **Palladino**. We have both things, Mr. Simpson. We have developed cooperative programs with certain segments of the industry, more so in recent years than we had done in the past. We also have undertaken research that is forward looking with regard to anticipated items. For example, research on the HTGR would be out of our budget if we go ahead with this particular funding. Now, that doesn't mean that all work on HTGR would stop, but at least the research would stop and we would probably limit our effort to developing criteria for the possible licensing of new plants such as the HTGR.

Senator **Simpson**. Do you have the ability to use your present authority to assess licensing fees to offset some of those costs? If you don't, would it make sense to give some legislative authority to do that?

Mr. **Palladino**. We have worked out with various groups for particular cooperative efforts. To try to put a fee, I think would bring about some difficulties because it is difficult to know who you are going to put the fee on. It may be a problem that covers only the plants of a certain vendor. It may cover only certain plants of a certain vendor. When it is generic in nature, it is very difficult to say we are trying to solve this particular problem and you ought to pay for it. We are often just, on some of the generic issues, trying to get enough background so that we can carry on an enlightened licensing process.

Senator **Simpson**. Over the years, I have watched the eight or so national laboratories where the research is performed. The level of funding has gone down in all of them. Some of them are obviously being phased out. LOFT is one that comes to mind. Some appear to be at such a low level of funding that it seems that they can't even do the essential work that is required in order to maintain the technical talent that is there.

I would ask, if that is true, would this research program benefit from a move to consolidate the NRC work in a smaller number of labs, perhaps in an area where a lab has demonstrated some extraordinary technical ability?

Mr. PALLADINO. I think you have touched on a very important point. With the reduced research budget, I don't think it is practical to keep all the laboratories viable such that they can afford to keep expertise to handle every particular problem that comes up. I think the necessary consequence will be to concentrate in particular labs.

It might be appropriate, Mr. Simpson, if you would like, to have Bob Minogue, the head of our research group, expand on this.

Senator SIMPSON. If you could, briefly, I think I would appreciate that.

Mr. MINOGUE. First, as regards the point of consolidation, there is, in fact, a current trend toward consolidation of work in individual laboratories that are selected in terms of the existence of a pool of expertise in that laboratory that is unique. So, we are moving in the direction of centers of excellence in particular areas as a way of maintaining a long-term continuing capability. This is actually an ongoing process. It has been driven partly by the budget reductions and partly by a general effort to be more efficient in the program.

The other thing that affects the national laboratories, as we go more and more into joint programs with various industry activities, those facilities may very well be facilities that are on industry property or done by outside contractors, not part of the national laboratory. That is a parallel trend that is tending to move work out of the national laboratories and into private sector programs in the United States.

There is a similar trend with foreign countries. We have a number of programs with foreign countries where there is more money being spent on the erection of new facilities in government laboratories, and we are participating in a number of those programs.

Senator SIMPSON. Let me just then follow up, does this budget reflect the efficiencies that are being achieved in consolidating the work?

Mr. MINOGUE. Yes, sir. Over the last few years, we have done a great deal to reduce the program costs by improved efficiency. I think the record speaks for itself.

The present budget has gone into muscle, though. We are actually terminating capabilities in some areas with this budget. I think we have gone as far as we can with program efficiencies.

Senator SIMPSON. Thank you.

Mr. BERNTHAL. Let me just say that I simply can't buy the proposition, and I think that proposition has been strongly supported if you read between the lines of the APS report on source terms, I can't buy the idea that somehow there is an adequate amount of funding out there for us to carry out our research mission. I think there is a broad misunderstanding, in fact, about what the research mission of this agency really should be, and it is something that we need to get straightened out here, and I think Congress deserves to have us better explain it.

One element of our research program involves what I would call the U.S. Government fundamental and basic research programs in safety. Those are programs that are carried out over the long term, often in collaboration with foreign governments, that are a residue, perhaps, from the old split-up of the Atomic Energy Commission. I think many of those programs are contained in Bob Minogue's research office.

There is another very important function, though, that is somewhat distinct, it seems to me, and those are the precise mission oriented problems that need to be addressed in immediate support of licensing and our nuclear reactor regulation group.

They are two important elements to our research program. I don't think the funding is adequate to cover both of those, and I think that proposition is borne out by the APS source term report, and I would be happy to comment further.

Senator **SIMPSON** [presiding]. Senator Chafee, if you would go ahead with your questions.

Mr. **ASSELSTINE**. Mr. Chairman, I don't want to prolong this unnecessarily, but——

Senator **SIMPSON**. I am going to come back to source term in later questioning, but I do want to recognize my colleagues in the order of their appearance here. Now to Senator Chafee and then to Senator Mitchell.

Senator **CHAFEE**. Thank you, Mr. Chairman.

Let me see if I get this straight. Commissioner Zech indicated that he thought the budget, as presented, is adequate. Is that right?

Admiral **ZECH**. Yes sir, that is correct.

Senator **CHAFEE**. Commissioner Asselstine said no.

Mr. **ASSELSTINE**. That is correct.

Senator **CHAFEE**. You want how much, $460?

Mr. **ASSELSTINE**. $460.

Senator **CHAFEE**. And the same goes for Commissioner Bernthal.

Mr. **BERNTHAL**. Yes.

Senator **CHAFEE**. And the Chairman was more diplomatic.

Mr. **PALLADINO**. As a chairman has to be.

Senator **CHAFEE**. Mr. Bernthal, do you want $460, also?

Mr. **BERNTHAL**. I essentially agree with the $460 number.

Senator **CHAFEE**. The present figure, as I read this chart here, is $429?

Mr. **ASSELSTINE**. Yes.

Senator **CHAFEE**. I think you can safely assume that you are going to get the $8.6 back that comes from the pay cut. That gets you up to $438 million, which makes you about $11 million below what you are at now.

Now, a quick answer to a question if you would, is your research responsible for trying to determine a safe way of disposing of wastes?

Mr. **ASSELSTINE**. That is included in our program, the regulatory part of the nuclear waste program. We have to license a repository, determine whether it is adequate. Our research is oriented toward giving us the information we need to make the licensing decisions.

Senator **CHAFEE**. But I mean a permanent safe——

Mr. **ASSELSTINE**. Yes, that is right. We have to license that facility, the Department of Energy has to build it and operate it. Our research is not as large as the Department of Energy's research, but ours is oriented toward giving us the information we need to make a licensing decision.

Senator CHAFEE. Would you answer this question: If I wanted to ask somebody how are you doing on determining the safe disposal of these nuclear wastes, would I ask you or would I ask the Department of Energy?

Mr. ASSELSTINE. Both.

Mr. PALLADINO. Well, I think we ought to clarify a point. The responsibility for developing the waste program is that of the Department of Energy. We have certain responsibilities to, in one case concur, and in most cases consult, and then eventually to license. So, we do have an interest in keeping up to date and to know when an operation can be licensed, but to actually develop and lead is the responsibility of the Department.

Mr. ASSELSTINE. The Department of Energy will be our licensee. They can't build the facility or operate it until we issue them a license allowing them to do that.

Mr. BERNTHAL. The relationship is not so different in principle from the relationship we have with any other licensee. We are supposed to be the guardians of the public health and safety with respect to those facilities.

Senator CHAFEE. Next question: The Chairman mentioned consolidation; put the facilities either in Washington or Bethesda, but put it somewhere.

Mr. PALLADINO. We said we would like to have the consolidation either in the District of Columbia or Bethesda.

Senator CHAFEE. To do it in Bethesda requires some capital expenditures by somebody.

Mr. PALLADINO. Well, it may also be a leasing arrangement, depending on what can be developed by GSA.

Mr. ASSELSTINE. In fact, they are telling us a leasing arrangement is what we basically have to go with.

Senator CHAFEE. We have stumbled around with that up here for several years, and we ought to resolve it.

Next, on the inspections, you made the point, I believe, Mr. Chairman, that the inspections continue throughout the life of the plant right up until it is decommissioned. Out of curiosity, Mr. Bernthal mentioned that new plants were coming on. Thirty plants are under construction now, I think you said.

Mr. BERNTHAL. We will have something in the neighborhood of 20 to license over the next 2 years.

Senator CHAFEE. How does that compare to past years? You say 20 to license in the next 2 years. I appreciate that your inspection isn't just dealing with the original license to operate and continues throughout the life of the plant, but how does that compare? You indicated that that was an awesome responsibility of considerable significance. How does it compare with other years? For instance, the peak of your budget as I see it was in 1981. How many plants were you licensing in the period 1981–82, that 2-year period?

Mr. BERNTHAL. I think maybe Harold Denton has the numbers.

Senator CHAFEE. I don't need it exactly, but I am trying to get an idea.

Mr. BERNTHAL. It is the biggest number, I think, since the mid-1970's, if my memory is correct.

Mr. ASSELSTINE. There were almost none in 1981 and 1982 following Three Mile Island. We issued 6 operating licenses last year. If you talk about somewhere in the neighborhood of 20 over the next couple of years, then that is a substantial increase.

Senator CHAFEE. So, you are talking maybe 10 a year.

Mr. ASSELSTINE. That is right.

Mr. BERNTHAL. Yes.

Senator CHAFEE. I see.

In connection with the Chairman's statement, I think we should look into the matter of an administrator.

As far as the budget goes, let me just say I know that you want more money. So does everybody who comes before us. It has been my experience, both in a prior incarnation where I knew Admiral Zech and elsewhere, that the only way you get people to enact savings it to make them do it. No Government agency is going to do it voluntarily.

Here we are confronted with this massive budget deficit problem, and you are at a little less than level funding when you get the restoration for the pay cut. Certainly, I would be opposed to your getting any more than level funding and would need more persuasion than has been granted here to increase it from the $438 that you get with the pay cut restoration. If you want to make an additional plea, obviously we would be glad to hear it. No, not glad to hear it; but we would hear it.

Mr. BERNTHAL. I have just one brief comment that I had intended to make earlier. I don't have any doubt in my mind that economies can be made in this Agency.

Senator CHAFEE. Economies can be made in this committee, too, and throughout the Government, so it isn't just you.

Mr. BERNTHAL. I agree with you, Senator. The question is can we, particularly in something like research, in the space of 6 to 8 weeks, achieve those economies within a realistic budget? I think the answer to that is no. This process—however, I would be the first to say, has been very useful, and I suspect, in fact—I am quite sure, that by the time 6 months are up, we are going to have a better idea of where the cuts in our Agency's budget can be made.

Senator CHAFEE. Where do you get the 6 to 8 weeks?

Mr. BERNTHAL. Six to eight months, I meant. I am sorry.

Senator CHAFEE. Because you are gearing toward the October 1 deadline, you can't do it in a rational way to make those reductions.

Mr. BERNTHAL. I think my 6 to 8 week figures applied to the amount of time we were given to respond to an OMB budget. In a number of months, I think we can and will take more rational economies throughout this agency. But in research, especially, those are long lead-time items, and I would argue that it is very difficult to continue to take the kind of deep cuts and have those be rationally proportioned.

Senator CHAFEE. Yes, but who comes up with the individual internal cuts? As far as we are concerned here, I think I for one and maybe Senator Simpson knows more about this as chairman of the subcommittee, but it is you who must determine where the cuts come under these six subdivisions, isn't it? It is not us. We don't exercise a line-item appropriation for you or authorization.

Mr. BERNTHAL. That is right.

Mr. PALLADINO. Mr. Chairman, we may also revise our preliminary considerations that we have gone through in reviewing this budget number when we see the final value that comes out.

Senator CHAFEE. Is my time up?

Senator SIMPSON. About 1 more minute.

Senator CHAFEE. Well, let me ask you, as chairman of this subcommittee, do we, in fact, authorize down into these subdivisions or do we authorize an overall figure?

Senator SIMPSON. We are presented with an overall program on a 2-year basis here. Within that, they do their chopping. When they come back for oversight, we always find they have done their chopping in research. That is one thing I can always express to you. Then we try to ensure that they get their moneys over in inspection and the public health and safety aspects, and sometimes they don't, but that is a continual problem.

Senator CHAFEE. I am not sure of the answer, though. Do we authorize the round bottom figure here, or do we authorize how much for nuclear reactor regulation and how much for inspection and enforcement and how much for nuclear materials safety and safeguards?

Senator SIMPSON. We authorize each of those as presented under those categories.

Senator CHAFEE. And then they are required to stick within those authorization limits?

Mr. ASSELSTINE. Right, subject to reprogramming authority.

Senator CHAFEE. By you folks.

Mr. ASSELSTINE. That is right.

Mr. BARRY. Mr. Chairman, I am Len Barry. I am the controller of the agency.

You authorize by six major program categories. The limitation you put on us is that if we want to reprogram resources in any of those six categories, in other words, out of and in to, for more than $.5 million, then we must come to you for reprogramming approval.

Senator CHAFEE. All right, a last question and I will end, because my time must be up. I am not sure exactly what you are saying, Mr. Bernthal. You are saying that given more time, you could effect the economies that we are suggesting or that OMB is suggesting, negating the pay cut?

Mr. BERNTHAL. I think that over time, there are economies that can be taken. I am not prepared to say exactly how much or where. What I can say is that what you get, I think, in a 6- or 8-week budget back and forth is a pretty scatter-gun, not very well considered, and hoped for set of cuts.

I would like to make one more comment on research. The very reason that makes it so difficult for us to cut research intelligently the way we have had to in the last 2 or 3 years is the reason for its being an easy mark for our cuts. Because these programs are long-term, because it takes a great deal of time to start them up, get them in process, and, frankly, to shut them down, it is always easy to say we can push research off for another year or two. I think that we have a serious task in front of this agency and the country. Again, I have to point to the APS source term report, not so much because of what it says about source term, but what it says about the research that is behind much of what this agency has done in the last few years.

Senator **Chafee**. But what incentive is there for you to make those cuts that you think you can achieve if we give you the exact amount of money you personally ask for, the $460?

Mr. **Bernthal**. That is why I have suggested that I think this has been a healthy process. The $460 is a freeze. For an agency that is trying to license the most nuclear power plants that it has, I think, since the mid-1970's, we are willing to accept the freeze, but I think to go beyond that is not a reasonable request at this time.

Senator **Chafee**. I have to quit because Senator Mitchell is gnawing at the bit there, but I don't get $460 as a freeze when $450 is what you are getting now. You are shaking your head, Mr. Controller. You are shaking your head which way, that I am right or I am wrong?

Mr. **Bernthal**. I think that the reason you come to $460 is that that represents last year's freeze plus the additional specific in support of the Nuclear Waste Policy Act functions. To be sure, those are additional, but I think that is the way we arrived at that number.

Senator **Chafee**. My time is up.

Senator **Simpson**. We can come back to your response there. We appreciate that, Mr. Barry, and I appreciate your explanation a moment ago. That is helpful.

Senator Mitchell.

Senator **Mitchell**. John, your saying "my time is up" will go down in history along with Hubert Humphrey's, during a speech, saying, "and in conclusion."

Senator **Chafee**. Well, it got me 4 more minutes.

Senator **Mitchell**. From now on, when you say "my time is up," I will know I have time to go out and make a few phone calls.

Thank you, Mr. Chairman. I do have an opening statement that I would like to ask be submitted. I will not read it but would like it placed in the record.

Senator **Simpson**. Without objection.

[Senator Mitchell's statement follows:]

STATEMENT
NRC FY 86 BUDGET
SENATOR GEORGE J. MITCHELL
MARCH 7, 1985

Thank you Mr. Chairman. I join you in welcoming Chairman Palladino and the other Commissioners here this morning as they present their views on the Nuclear Regulatory Commission's FY86-87 budget.

I look forward to their comments, both in their prepared statements and in their answers to the questions from the members of this Committee. These sessions, as you know, are always very informative for the members; I hope the Commissioners also feel they gain something from the exchange of views which occur.

The NRC has requested $429 million in FY86, which would be a reduction of $19.2 million, or 4 percent, from the FY85 funding level of $448.2 million. This is the first time I remember the NRC's budget request representing a reduction from current funding levels. I should say here that I am concerned about the NRC's ability under such a reduction to adequately respond to unforeseen problems or occurences in FY86 without having to curtail activities in other areas. I hope the Commissioners will address that point in their testimony today.

The NRC's FY87 budget request, which has not been approved by OMB, is for $460 million, an increase of $31 million, or 7 percent from FY86. The requested staff level in both fiscal years is at FY85 levels; I also note that the FY86 budget includes the President's proposed 5 percent pay reduction for all employees.

I will have some questions about what I see and what I don't see in the budget for the coming year; some this morning and some in writing. It is also my intention to ask the Commissioners some questions regarding the licensing reform bill which the Commission has recently forwarded to Congress.

I have not had an opportunity to completely review the bill; I do, however, have several questions about provisions in the bill that are different from the NRC's bill from the 98th Congress, S. 893. I presume that before any markup is held on the licensing reform bill members will have an opportunity to question the Commissioners in greater depth and at greater length at another hearing. So I will save most of my questions about licensing reform to another day.

Thank you Mr. Chairman.

Senator MITCHELL. I would like to point out for the record that the amount requested by the Commission prior to the OMB decision was, in fact, a significant reduction below the level that the Commission expended in fiscal year 1984. The remark was made here that nobody ever asks for less money, but in fact the Commission did just that. According to the figures I have before me, and this is a Senate committee staff document, the level of expenditure by the Commission in fiscal year 1984 was $475 million. I am rounding off now. In 1985, it is estimated at $449 million, and the Commission's request to OMB was $460 million for each of the two years involved in the 2-year cycle for 1986–87. OMB came back, having dealt only with 1986 and said we recommend $429, and that is the figure that is now coming forward.

So, even the $460 level which the Commission asked represents a reduction of $15 million below the level of expenditures made two years previously. Were we to approve the $460 level, you would still be below the level of expenditure made 2 years ago.

Is that correct?

Mr. PALLADINO. I think certain clarifications might be in order. Our first budget request for 1986 was, I think, about $530 million which would take into account some of the increased costs that are associated with our programs and permit us to do the things we thought were essential to do in our program. The proposal that came back was, the reverse of that, was $350 million. We felt we were just in a position that we couldn't tolerate. We came back, then, with a proposal with due consideration to cutting some of the future-looking or forward-looking programs that we could come down to about $460, and that is the number that we have been using here.

Senator MITCHELL. Is that the letter that Commissioner Asselstine referred to? In December?

Mr. ASSELSTINE. That is correct.

Senator MITCHELL. Admiral Zech, did you dissent from that figure at that time or did you agree with that?

Admiral ZECH. I approved it at that time.

Senator MITCHELL. So, in December, you felt $460 million was the proper level.

Admiral ZECH. That is correct.

Senator MITCHELL. Thank you.

Having heard back again from OMB, you are saying $429 is the proper level.

Admiral ZECH. I am. Frankly, Senator, if I may say, I was not involved in much of the budget process this year, and I must say I was relying pretty much on what I received from the staff and my advisors, but I hope to be involved in a much more heavy way next year. I am not as confident, I don't think, about the budget as some of my colleagues are, but I have had a chance, since the original discussions, to get into it to the extent that I really do believe that we should believe that we should be able to carry out our mission with the budget we have submitted today.

Senator MITCHELL. Thank you, Admiral.

Mr. Chairman, if I may say, included in my statement which I would like to point out now, is a comment on the licensing reform legislation. In view of the emphasis by both Commissioners

Bernthal and Asselstine on the significant differences between this bill and the one of 2 years ago, which Commissioner Bernthal emphasized was intended to be different in significant respects, I hope that if we are going to proceed in that area we can get a hearing so we can explore it. This isn't the proper place for it, but I would like to ask both of them and the other members a number of questions about that.

Senator SIMPSON. I agree, and you may certainly go ahead and ask any questions you wish.

Senator MITCHELL. I didn't want to linger on licensing reform now because I have so many other questions that deal more directly with the budget, but I just wanted to make sure we would have a chance for that at the appropriate time.

Senator SIMPSON. I can assure you we will, and I look forward to working with you on that as I do all these measures. You have been very helpful across the board with me.

Senator MITCHELL. Thank you.

Mr. Chairman, how many licenses authorizing full power operation were approved by the Commission in 1984?

Mr. PALLADINO. I have it here. In 1984 you say?

Senator MITCHELL. Yes.

Mr. PALLADINO. Six.

Senator MITCHELL. Of those six, what was the number of instances, if any, in which a local, county, or State government entity refused at any point in the development or testing of the plant's offsite emergency evacuation plan to participate in the emergency planning process?

Mr. PALLADINO. Of those that we licensed, we achieved resolution on all the emergency planning issues.

Senator MITCHELL. In every case, the local, county, or State government entity participated in the process?

Mr. PALLADINO. Yes. Now, I can't say that there weren't problem areas.

Senator MITCHELL. No, I understand that.

Mr. PALLADINO. But they were resolved.

Senator MITCHELL. As you will recall, last year, the fiscal year 1985 Energy and Water Development Appropriations bill report contained a provision—and this was from the Energy Committee which directed you, the Commission:

> In connection with licensing decisions and in consultations with FEMA to determine those discrepancies which are easily correctable and not substantially important to the public health and safety and distinguish them from discrepancies which are both not susceptible of ready resolution by the utility and are of substantial importance to the protection of the public health and safety. It shall then issue such regulations as may be necessary to allow appropriate action to be taken to license plants while protecting the public health and safety.

I might add, Mr. Chairman, we have a lot of discussion in this committee about words and their meaning, but I want to say, here is a standard that really takes analysis and definition. You were directed, if I can repeat, as Chairman of the Commission, to distinguish "discrepancies which are easily correctable and not substantially important to the public health and safety" on the one hand, and distinguish them from "discrepancies which are both not susceptible of ready resolution by the utility and are of substantial importance to the protection of the public health and safety" on the other hand.

I criticized this at the time. My question now, Mr. Chairman, is, has the Commission taken any action in the current fiscal year to implement the directive contained in that report?

Mr. PALLADINO. I am having difficulty recalling the report.

Senator MITCHELL. Well, you can respond to these questions in writing, then, if you do not recall it.

Mr. PALLADINO. May we, please?

Senator MITCHELL. All right. Then, I will ask a series of questions, and perhaps somebody on your staff there can note these: What funds have been or are expected to be expended on the development of such regulations? Have any of the plants authorized for full power in fiscal year 1985 been affected by any rules or regulations which you may have promulgated in response to the directive contained in that report? If there are any, please identify those plants.

I will have these in writing, Mr. Chairman, for you.

Mr. PALLADINO. I think it might be better for us to submit it for the record rather than try to give an off-the-cuff answer.

Senator MITCHELL. Yes, I understand that, and I will certainly look forward to that.

Mr. PALLADINO. I was about to give you an off-the-cuff answer, and I said I had better be careful.

Senator MITCHELL. Right.

Mr. PALLADINO. I might be answering the wrong question.

[The information requested follows:]

1. Has the Commission taken any action in the current fiscal year to implement the directive contained in that report?

Both NRC and FEMA requirements provide for the identification of deficiencies important to the public health and safety as opposed to other deficiencies of lesser significance that may be observed prior to licensing[1] a plant; only the former present a potential impediment to licensing a plant. If deficiencies are present, the applicant will have the opportunity to demonstrate to the Commission that they are not significant for the plant in question, that adequate interim compensatory actions have been or will be taken promptly, or that there are other compelling reasons to permit plant operation. No action appears necessary to implement this portion of the Committee's requirement.

Regarding the treatment of deficiencies that are important to public health and safety but that are not readily susceptible to utility resolution, this aspect of the Committee's requirement appears to relate to instances where State or local entities fail to implement corrective actions to resolve discrepancies in offsite plans or where they are not participating in the planning process.

10 CFR 50.47(a) provides in part: no operating license for a nuclear power reactor will be issued unless, finding is made by NRC that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. The NRC will base its finding on a review of the FEMA findings and determinations as to whether State and local emergency plans are adequate and whether there is reasonable assurance that they can be implemented. 10 CFR 50.47(c)(1) provides in part: failure to meet the applicable standards set forth in paragraph (b) of this section may result in the Commission declining to issue an operating license; however, the applicant will have an opportunity to demonstrate to the satisfaction of the Commission that deficiencies in the plans are not significant for the plant in question, that adequate interim compensating actions have been or will be taken promptly, or that there are other compelling reasons to permit plant operation.

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[1] Note that findings concerning the state of offsite emergency preparedness are not required prior to issuance of an operating license authorizing only fuel loading or low power.

Such assurance would only be provided by a statute requiring state and local participation in offsite planning, preparedness and implementation, and their implementation of corrective actions when necessary to resolve discrepancies of offsite plans.

It is not presently possible to predict whether FEMA would recommend or NRC would approve an offsite emergency plan in the absence of State or local action. However, depending on the circumstances of a particular case, there may exist legal impediments to the implementation of an offsite plan without such action, and these legal impediments could prevent FEMA and the NRC from reaching a favorable finding on offsite emergency preparedness. For example, the adequacy of a utility-sponsored offsite emergency plan for the Shoreham facility was litigated in the New York State courts. Two related legal issues arose in that proceeding (1) whether the utility has the legal authority, under State law, to perform certain functions which we normally would expect State and local officials to perform during an emergency, and (2) whether, if State law withholds such legal authority from the utility, there exists any Federal statute or regulation which would preempt the operation of that State law and allow the utility to implement its plan regardless of State law. The New York court issued a declaratory judgement that LILCO had no authority under State law to implement an offsite emergency response plan which LILCO had prepared. Questions pertaining to whether the Atomic Energy Act and other Federal statutes preempt State law in this areas were not ruled upon. It is expected that the Trial Court's decision will be appealed. In a separate case, on March 18, 1985 a Federal District Court determined that the Atomic Energy Act did not mandate that Suffolk County cooperate with LILCO in emergency planning.

Commissioner Asselstine believes that this issue raises constitutional questions which are not recognized by the Commission response.

2. What funds have been or are expected to be expanded on the development of such regulations? None.

3. Have any of the plants authorized for full year power in FY 1985 been affected by any rules or regulations which you may have promulgated in response to the directive contained in that report? No.

Senator MITCHELL. I would like to go to another area, and that is that in 1983, the Commission classified all of the generic safety and human factors issues into high, medium, low, or dropped priority, four separate priorities. As a result of the OMB budget mark for fiscal year 1986 which is now before us, the Commission will apparently only address the high priority generic and human factors issues. What is the safety significance of not addressing what are identified as dropped, low, and I am particularly concerned, obviously, with medium which is the highest level of priority that will not be addressed? What is the safety significance of not addressing those? And are you, the individual members of the Commission, personally unconcerned and comfortable with the deferring of the resolution of issues which you yourself have identified as medium priority in terms of safety and health?

Mr. PALLADINO. Mr. Mitchell, I wonder if I could call on our Director of our Nuclear Reactor Regulations, first, to give the factual aspects, and then we can respond to the policy aspects.

Mr. DENTON. My name is Harold Denton. I am Director of the Office of Nuclear Reactor Regulation.

I would have preferred to resolve new medium priority safety issues. The ones that we prioritized as low priority or drop did not rise to the level that required that we resolve them. So, resources were in our budget last year to do the medium priority safety issues, but when I went through the resources I had for next year to do the essential jobs of keeping the operating reactors safe, to license the new reactors, the work on the unresolved safety issues, the work on the high priority safety issues, I just didn't have the resources available to do the new medium priority generic safety issues. There are some issues that might come back to cause us problems in the future, but all the things that I thought were really high priority, I put in the high priority.

Presently, NRR is resolving about 14 medium priority generic safety issues and we protect about 6 new medium priority generic safety issues to be identified each year. We do not have the resources to put on new medium priority generic safety issues.

Senator MITCHELL. Well, since my time is nearly up and I have one other subject area I would like to get into, I would like to ask you, Mr. Denton, to submit in writing a further response identifying the 14 areas in the medium priority area. Give us an indication of what they are and, also, I would invite any member of the Commission to submit a comment in writing on that point.

You have a very important and serious responsibility. You put safety issues in four categories and then you say we are only going to resolve things in the highest category. I would just like to know how you feel about the fact that you are saying, in effect, that the other three categories—and none of us now, at least, I don't have any grasp of the relative scale from highest, medium, low, and drop. We don't have any way of putting that into any tangible substantive form.

So, I would like to get that from you, Mr. Denton, and if any Commissioner cares to comment, we would welcome it. If you don't, that is up to you.

[The information requested follows:]

The 14 medium-priority [1] generic safety issues that NRR currently has scheduled to on are:

2: Failure of Protective Services of Essential Equipment.[2]

49: Interlocks and LCOs for Class IE Tie Breakers.

51: Proposed Requirements for Improving Reliability of Open Cycle Service Water Systems.

61: SRV Discharge Line Break Inside the Wetwell Airspace of BWR Mark I and Mark II Containments.

70: PORV and Block Valve Reliability.

79: Unanalyzed Reactor Vessel Thermal Stress During Natural Convection Cooldown.

82: Beyond Design Basis Accidents in Spent Fuel Pools.

A-29: Nuclear Power Plant Design for the Reduction.

B-5: Ductility of Two Way Slabs and Shells and Buckling Behavior of Steel Containments.

B-55: Improve Reliability of Target Rock Safety Relief Valves.

B-58: Passive Mechanical Failures.

B-61: Allowable ECCS Equipment Outage Periods.

C-11: Assessment of Failure and Reliability of Pumps and Valves.

II.E.6.1: Test Adequacy Study.

Mr. PALLADINO. May I make one comment, Mr. Mitchell? On these issues, on a particular case, the staff still has to make a finding that the plant is safe given that situation or that some compensatory action has been taken to make it safe. So, the fact that some of these things aren't necessarily addressed in a particular timeframe doesn't mean that we are absolved from making that finding.

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[1] Additionally, 10 medium-priority safety issues are scheduled to be worked on by other NRC offices.

[2] Currently, Issue 2 is being reprioritized.

Mr. **Asselstine**. Senator Mitchell, this is one of the areas that concerns me, and it does seem to me that the line should have been drawn below the medium priority items. You can make judgments about how significant some of the medium priority items are as compared with each other. One of the ones that jumped out at me when I looked at the list was component reliability.

There are component reliability problems in the industry. Some of these medium priority items were aimed at looking at those questions and resolving them. You can do that now or you can wait for something more serious to happen and deal with it then. It seems to me it makes more sense to put the emphasis on that and get it resolved early on before something more serious occurs.

I agree with Mr. Denton that the low priority items and the ones that were designated to be dropped I am not terribly concerned about, but the medium ones I think are more significant.

Senator **Mitchell**. Thank you. I would like any comments in writing, because, as Humphrey and Chafee said, my time is up, and I do want to just make a comment on one other area and ask for any written comments which members of the Commission care to make. Then, I have a fairly lengthy list of other questions which I will have to submit in writing, Mr. Chairman, because of time.

The one area that I would like to mention is this whole area of the Institute of Nuclear Power Operations. Now, correct me if I am wrong because I do not purport to be an expert in this area, but after Three Mile Island, the Commission said, in effect, we have to have mandatory standard training programs for plant personnel. In response, the industry said, well, we will do that. We will form this institute, by the acronym of INPO, and the industry will regulate itself, self-regulation in terms of training standards and utility compliance.

Now, it is my understanding that INPO has no mechanism to compel utilities to either participate in its program or to follow its recommendations so that problem utilities are not required to improve their training programs. On the other hand, the Commission does not regulate training standards because it says the industry is already doing that through INPO.

Now, if I have in any way misstated the situation, I would like to have each member of the Commission tell me so, in writing, and if I am accurate in stating it, I would like to have you tell me whether or not you are concerned about this.

I am frankly concerned. Mr. Chairman, you know we had an exchange on the question of a report that listed Main Yankee as one of the most worrisome plants. After looking over the transcript of that as my staff did in some detail and I did briefly, I became concerned about some aspects of this problem. If we have this situation, if I have accurately described it, then it is a matter of concern to me and I think it ought to be a matter of concern to you.

So, I would ask you all to comment in writing on that, first, in either affirming the accuracy of the observation I have made, or, if you do not agree with it, disputing it and identifying where it is you disagree with it, and then commenting generally on the problem.

Mr. **Palladino**. We will be glad to submit that.

[The information requested follows:]

At the hearing before the Committee on Environment and Public Works held on March 7, 1983, concerning the NRC budget for FY 86, Senator Mitchell suggested that (1) INPO has no mechanism to compel utility participation or conformance to INPO recommendations concerning training programs; and (2) NRC does not regulate training standards because the industry is already doing that through INPO. This insert presents information intended to provide a correct understanding of the relationship of INPO to the utility industry, and NRC policy, as regards training programs.

All U.S. utilities having nuclear power plants have confirmed in writing their intent to attain accreditation by INPO for their training programs. These same utilities are all participating members of INPO, and are subject to the institutional processes of INPO. With respect to the capability of INPO to assure that individual members take corrective action when recommended by INPO, the "Institutional Plan for INPO," states:

"A special procedure, approved by the INPO Board of Directors, provides guidance in the event that a member utility is not responsive to INPO programs or is unwilling to take action to resolve a significant safety issue. The procedure calls for INPO and the utility management to work to resolve any issues in contention. Should resolution not be satifactory, the procedure calls for specific interaction between the chief executive officer of INPO and the chief executive officer of the utility. Ultimately, the procedure gives INPO the authority to suspend the utility from membership if the utility continues to be unresponsive."

The NRC has recently issued a "Policy Statement on Training and Qualifications of Nuclear Power Plant Personnel." This policy statement does recognize industry initiatives to upgrade training programs, but in no way limits the authority or responsibility of the NRC to independently evaluate applicants' and licensees' implementation of improvement programs to ensure that the desired results are achieved. The NRC will continue to follow up on operational events and exercise enforcement authority when regulatory requirements are not met. However, the NRC intends to exercise some discretion in enforcement matters related to training and qualification and to refrain from new rulemaking in this area for a period of two years, subject to the continued success of INPO programs, while the industry, through the INPO training accreditation program, upgrades training programs throughout industry.

[Chairman Palladino and Commissioners Roberts, Bernthal, Asselstine, and Zech submitted the following additional response:]

I do not agree with your statement that "NRC does not regulate training standards because industry is already doing that through INPO." The NRC fully understands its responsibilities under 10 CFR 50.4 to regulate operator training.

Even though the Commission has decided: (a) not to publish a new regulation to implement performance-based training for all nuclear power plant personnel; and (b) to proceed under the Institute for Nuclear Power Operations (INPO) accreditation program for a two-year trial period, the NRC intends to monitor the INPO effort and will be deeply involved in assuring that the INPO accreditation program is working.

For example, the NRC will place a staff member on each INPO accreditation board and a member of the NRC staff will attend and observe all accreditation board meetings with INPO staff and utility representatives. The Commission staff will also accompany the INPO examiners on their visits to reactor sites, and will include training as one of the activities evaluated in its SALP (systematic assessment of Licensee Performance) reports. Finally, the Commission staff will continue to administer licensing exams for reactor operators and will conduct performance-oriented training inspections to assess the level of knowledge of plant personnel.

It remains the continuing responsibility of the NRC to independently evaluate applicants' and licensees' implementation of improvement programs to ensure that desired results are achieved. Nothing in our decision to endorse the INPO accreditation program shall limit the authority or responsibility of the NRC to follow up on operational events or place any limit on NRC's enforcement authority when regulatory requirements are not met. I think the oversight provided by both INPO and the NRC will be sufficient to promptly surface deficiencies so that appropriate action may be taken.

Moreover, the industry has been advised that at any time during the two-year trial period the NRC may decide to reinitiate the rulemaking process in the event that industry progress and/or performance are found to be unsatisfactory.

On balance, the INPO efforts to date have been very productive and worthwhile. However, given that there may be a few problem licensees, the question of INPO's authority to achieve unanimous utility commitment for a particular safety time is valid. In this perspective the NRC presently expects that only a small minority of utilities might disagree with a particular commitment, and that such disagreement would most likely be the result of a plant specific or utility unique situation not addressed by generalized INPO requirements. Therefore, the question of enforcement is envisioned to be applicable to a small number of plants, at worst. Moreover, the question may very likely be more a judgment question as to whether a particular situation warrants consideration of enforcement action or whether the intent of our requirements has been satisfied by a reasonable and acceptable commitment which recognizes the uniqueness of the situation. As indicated above, the NRC fully intends to enforce the requirements of 10 CFR 50.4, and appropriate enforcement or corrective actions will be taken if necessary. However, such actions are expected to be the exception to the rule rather than the norm.

Commissioner Asselstine has the following comment in response to Senator Mitchell's question.

Senator Mitchell, you are essentially correct in your statement that the Commission has chosen not to proceed with a regulation on training of nuclear powerplant personnel at this time based upon the INPO accreditation program for utility training programs. I personally believe that the INPO program is vigorously pursued by all utilities, and if the INPO program insists upon a high standard of performance, it should bring about the needed improvement in utility training programs. All utilities operating nuclear powerplants have committed to complete the steps needed to achieve INPO accreditation by the end of 1986.

There are two potential weaknesses in the INPO effort. First, INPO depends upon peer pressure by its members to assure that all utilities meet their commitments. It is uncertain whether this peer pressure will be fully effective in assuring that all utilities meet their commitment to accreditation on time. INPO can suspend a utility from membership, a step that would have potentially significant financial consequences for the utility. However, as yet no utility has ever been suspended from INPO. In a real sense, the accreditation program will be a test of the effectiveness of the organization's ability to assure full compliance by its members. Second, INPO has adopted its high standards for utility performance in the accreditation area as a voluntary matter, and these standards are subject to change. Thus, INPO could relax its standards to accommodate individual utilities that do not meet the current high standards.

To guard against these weaknesses, the Commission has agreed to monitor both the peformance of the INPO accreditation reviews and the performance of the individual utilities in preparing their training programs for accreditation. These NRC monitoring efforts should give us the ability to assure ourselves that the INPO program is continuing to function effectively and that all utilities are making adequate progress toward full accreditation of their training programs.

Although I support the Commission's overall approach to the training and accreditation issue, I believe the Commission went too far in promising the industry that NRC would not proceed with training regulations for a two-year period and would not take enforcement action against a utility for training violations during a two-year grace period. If our monitoring activities disclose a breakdown in the INPO accreditation program or lack of progress by one or more utilities, then I believe the Commission should proceed with individual enforcement actions on a case-by-case basis based upon our existing regulatory authority, and with our own training regulations if appropriate. I am concerned that the Commission's policy statement on training appears to foreclose these options, at least for the next two years.

Commissioner Zech has the following comment in response to Senator Mitchell's question.

It is my understanding that INPO employs a variety of mechanisms to ensure utilities properly address their recommendations and findings. The first step starts with the plant evaluation. During the evaluation, INPO verifies that all previous findings have been properly resolved. Any deficiencies that were not corrected or only partially corrected are singled out from the other findings and presented to the CEO at an evaluation exit as recurring or repeat findings. This identifies the problem to the proper management level. If corrective action does not appear to be taken, INPO arranges for a special meeting between the Chief Executive Officer and the President of INPO. If necessary, selected CEO's of other facilities, and even the INPO board of directors, have committed to bring their influence to bear to assist the President of INPO. Nonresponsiveness can ultimately result in loss of INPO membership with the possibility of media criticism and the loss of public support. In some cases, loss of INPO membership would also result in loss of the utilities insurance coverage INPO takes additional action for those plants where follow through is necessary. It is my understanding that, instead of waiting the normal 12 to 15 months to revisit these plants, INPO schedules intermediate visits to check the plants progress. I am informed that some of these visits have occurred at three-month intervals. If progress is not noted, INPO can take some or all of the actions noted above.

INPO applies its methodology for resolving findings regardless of the area of the findings (e.g., training, operations, maintenance). Consequently, while INPO does not have the authority to compel compliance, it does not have considerable influence. As a matter of fact, I am informed that to date INPO has never had to implement its progressive schedule beyond the INPO resident-CEO stage to get appropriate action.

In any event, however, regardless of what action INPO may choose to take in any particular case, the NRC closely monitors the process and the results. Without question, the NRC does have the authority to compel its licensees to take whatever corrective action the NRC deems to be warranted to provide adequate protection to the public health and safety. If appropriate, I feel sure that NRC would exercise that authority. Compelling compliance is properly NRC's role. I believe INPO is appropriately effective exercising its present role.

Senator SIMPSON. Thank you, George.

One of the things that did occur after Three Mile Island was the formation of INPO and they are admittedly an all-utility operation, and they admittedly gathered together to try to bring some responsibility to their industry which, I think, no one can fault. In the process, no one believes that they have ever taken the place of the NRC in any function, so I think that is very important to remember, but some of the information that they have furnished through the Kemeny Commission and the lessons learned, some thoughtful things have come from INPO because they were just as embarrassed by some of the duds in their utility operations as you are and I am and the NRC is.

Senator MITCHELL. Let me make clear, Mr. Chairman, I intend no criticism of INPO and I commend the industry for the effort at self-regulation. The problem is that if you have no mechanism for compelling participation or requiring people to do things, what you almost always end up with in these things is that people who are good at it and anxious to do things are more active than those who really need the participation. That is the only thing that concerns me, and if so, does that create a gap that isn't being filled.

Senator SIMPSON. It would be good to hear their views on how effective INPO has been relative to things that have actually happened regarding changes in the NRC and how they have led, at least, some of their members along to a more responsible attitude.

Mr. PALLADINO. One point I think we should clear up. I think the Commission has the authority to determine whether or not a training program is adequate and step in, even under arrangements with INPO.

Senator MITCHELL. Have you done so? Having the authority and exercising it, of course, are two different things.

Mr. PALLADINO. In every situation, we have had to make a finding that the training has been adequate on the new licenses.

Senator SIMPSON. Well, if you would furnish, along with your material to Senator Mitchell, based upon what they have done, furnish us the evidence such as data on radiation protection or reactor trips, the tests that INPO has had some result in this area, I would be interested along with Senator Mitchell.

[The information requested follows:]

The Commission believes that INPO has made a contribution to improved safety and reliability in the operation of nuclear power plants. INPO has, in the 5 years of its existence, pursued many important areas warranting improvement and has kept the NRC informed of its progress on a continuing basis. We believe that the INPO work has been worthwhile and generally in accordance with expectations.

The INPO efforts toward self-regulation had had the direct affect of improving plant safety and reliability. Moreover, the INPO commitment of manpower has allowed the NRC to focus on other important safety matters more heavily than might be the case without these INPO initiatives. In this way, INPO has also made an indirect contribution to plant safety.

Earlier this year INPO briefed the Commission on its 1984 activities. During this briefing the following two sets of statistics were presented as evidence of INPO's effectiveness:

Average number of unplanned reactor trips per plant

1980	6.0
1981	5.6
1982	5.0
1983	4.1
1984	3.5

Average number of significant events [1] at operating plants per plant

1981	1.64
1982	1.27
1983	.97
1984	.70

[1] INPO has noted "that the process of determining whether or not an event is significant depends ultimately on subjective judgment. Therefore, these numbers may not be precise. Nonetheless, the trend is clear."

The reductions in unplanned reactor trips and significant events are the result of many factors such as individual licensee initiatives, NRC initiatives, INPO initiatives, the fact that the industry as a whole is gaining more large LWR experience with each passing year, etc. Therefore, it is difficult to attribute these reductions solely to the INPO effort. However, INPO has undertaken work which would contribute toward such reductions and some credit for the success to date should, therefore, be afforded to INPO.

The 1984 INPO program highlights and new initiatives fall into four areas which are outlined below. We believe INPO is capable of doing an effective job in these four areas:

Evaluations

Operating and NTOL evaluations.
Simulator evaluation.
Senior reactor operator peer evaluations.
Corporate evaluations.
Evaluation of emergency preparedness.

Events analysis

Significant event evaluation and information network.
Human performance evaluation.
Nuclear plant reliability data system.

Training and accreditation

Guidelines.
Job and task analysis.
Accreditation.
Accrediting board.

Assistance activities

General employee training in Radiological protection.
Data base management.
Good practices.
Workshops.

Of all the areas of IMPO involvement, the most notable contribution made to date has been the accreditation program. Progress is being made as a direct result of the INPO effort, and 36 out of the potential 620 programs have been accredited. The NRC has reviewed the INPO program and has issued the NRC Policy Statement on Training and Qualifications. This Policy Statement allows industry a period of two years to have all training programs ready for accreditation.

The accreditation program is relatively recent. To date, 36 programs have been accredited of the 620 potential. The NRC Policy Statement on Training and Qualifications allows industry a period of two years to have all training programs ready for accreditation. During this period, the NRC staff will monitor and evaluate the progress of the industry in achieving this goal. The monitoring and evaluation will include regular inspection of the performance capabilities of trained utility staff and a sampling of programmatic reviews to insure that the accreditation process has assured that performance-based training is in place in the industry. The Policy Statement allows the NRC to utilize its enforcement authority under existing regulations to assure adequate training. A program to monitor performance indicators throughout the industry is also being initiated. Industry has also agreed to keep the Commission informed of its progress.

Mr. PALLADINO. I think there is one point of difference between INPO's undertaking and our responsibility. INPO has been trying to get the industry, at least, this is what they have proclaimed and I think they have been trying honestly, to get the industry to strive to a higher level of excellence. When the NRC comes to regulate, it must set minimum standards. One of the problems has been that as soon as we set minimum standards, the utilities say well, when we get up there, that is all we have to do. I think there is a need to go beyond that and to exercise what I call intellectual curiosity in the operation of these plants and to ask why is this particular fault coming about or why did that particular accident surprise us on that part of the plant. That would lead to corrective actions that could occur before the NRC says, oh, by golly, you violated one of our regulations.

So, I think the focus is a very appropriate one for the industry, and we encourage them, because if they succeed in achieving a high level of excellence, they have undoubtedly helped achieve meeting or complying with our regulations.

Senator SIMPSON. I would indicate, too, that the subcommittee is going to address that and have a full hearing on that issue with regard to Senator Moynihan's Federal academy bill where we get into some of those issues such as, how are we all guiding toward the essence of training within the reactor personnel, that type of thing. So, we are going to go into that rather thoroughly.

Senator MITCHELL. Did you want to say something?

Mr. ASSELSTINE. I would just add, Senator Mitchell, that while I agree with what the Chairman said, I still think that it is a two-step process. Part of the INPO effort is aimed at bringing up the poor performers. What they have to rely on, essentially, is peer pressure. I think the jury is still out on how effective that system really is and how effective it will be in the training area. That is one of the things that I think we have to continue to monitor very closely.

Senator MITCHELL. Mr. Chairman, I have to leave and go to another meeting. I thank you for your cooperation and that of the NRC and its staff.

Senator SIMPSON. You are very welcome, always.

Let me ask just a few more questions, and then I will submit many of them in writing.

We were talking about operating licenses and numbers. How does that estimate of 20 new operating licenses in 1986-87 compare to prior operating license estimates and what has actually happened in those prior years? Have those estimates been accurate, as we say in the trade?

Mr. PALLADINO. It is a question of what we are trying to describe. We can always list the number of construction permits granted. At the present time, in addition to those that are licensed to operate and licensed for low power testing, we have 37 construction permits granted.

However, 7 of those have been deferred, at least 7 have been deferred or put off for some time, so one could say, at best that there might be 30 that are active to the point where they might come up for licensing. These are about as factual as I, at least, could get with regard to your question.

Mr. BERNTHAL. Just one quick comment. To say that there are 20 plants or so to be licensed in the next two years is not to say that I believe that isn't going to get fuzzed up a lot. I think, unfortunately, it will be true that a number of those plants will slide, but that usually means that we have had some difficulty and that doesn't necessarily mean, then, that it requires less resources from the NRC.

Mr. ASSELSTINE. I would agree, Mr. Chairman. Experience has taught us, I think, over the past few years that those estimates tend to be optimistic. Frequently, what we do is base——

Senator SIMPSON. Fuzzed? Is that the word?

Mr. ASSELSTINE. I think overly optimistic is the way I would describe it.

Senator SIMPSON. I see. Fuzzed—I like that. Dr. James Boren has written a new book called *Fuzzify* which is a testimonial to Washington and all of us. We all ought to turn our attention to that book, *Fuzzify*. Anyway, we will see where those figures come.

Let me ask you, we received the results of this American Physical Society peer review of source term research. There are certain interesting conclusions there. Could you just briefly summarize your understanding of their conclusions, just very briefly?

Mr. PALLADINO. Let me try, and maybe I should not go too far without turning it over to the truly technical people. The APS found that there has been significant reduction in many nuclides, and I think most of the nuclides. They did find that, for some of the nuclides, the data did not show a reduction as a source term item compared to, let me say, WASH 1400. There were even a few cases where some of the isotopes were slightly higher than the WASH 1400.

Now, that didn't surprise me one bit, because when the American Nuclear Society made a presentation to the Commission, it didn't take long to look at their tables and see that there were a few places where there was not a reduction. The American Nuclear Society at that time acknowledged that there were gaps in the data and said, oh, yes, we have to close those gaps. The APS, the American Physical Society said, yes, you have to continue to research to confirm those items. I think the research plans do encompass covering those items.

There was another thing that the American Physical Society did not do but which I think the American Nuclear Society did do, but I would like to have it confirmed by my technical people. The American Physical Society did not look at the probalistic nature of a particular isotope being in the source term at all. That depends on looking at various scenarios and then assigning probabilities to those scenarios.

There is a methodology, though, that is being developed that would permit the inclusion of those factors. I don't know how the staff feels about the status of that work, but the American Physical Society said that, in general, the methodology looked pretty good but it had some places where it needed correction, and I think that the staff does agree that there are some places it needed correction.

So, we are at the point now where we are going to hear from the staff. I think it is scheduled on the 14th for them to provide us feedback on where they think we stand with regard to this matter.

Senator SIMPSON. We all know how this works in this place. When we get to a potential radioactive release which is what we often direct our overt and covert minds to, what is the next step in our effort to better gain an understanding of the potential radioactive release in the event of an accident, and what impact do you think that this report will have on the level of research funding required to address the remaining uncertainties there?

Mr. PALLADINO. Let me ask Bob Minogue, again, on the research aspect with regard to the source term.

My impression is that this work will still go on.

Mr. ASSELSTINE. Mr. Chairman, while he is getting ready to do that, I wonder if I could add a couple of comments on your first question?

Senator SIMPSON. Sure.

Mr. ASSELSTINE. While I might disagree with some of the qualifiers that the Chairman had, I think he stated some of the conclusions of the American Physical Society report. However, I think there are a couple of others that are significant, too.

One was the American Physical Society identified some major areas of uncertainty. They mention core-concrete interaction. They mention the selection of the accident scenarios that are to be studied. There are a couple of major areas of uncertainty. I think those are worth pointing out.

They also were not prepared to endorse any of the specific numbers on how much you can reduce the source term. While they said there were some reductions, and in some instances they would be significant, they also said that they could not endorse the specific estimates or numbers that other people have advocated. In fact, they disavowed some of the attempts by the American Nuclear Society and by the industry to draw broad general conclusions on reductions in source term and amounts of those reductions, and I think that was very significant.

In essence, I think what they were saying is the science isn't there yet. The research isn't there yet to draw those kinds of broad conclusions for all plants and all accident situations that the American Nuclear Society and the industry have been attempting to do and have put forward. To that extent, I think that the American

Physical Society report does call into question some of those broad conclusions that others have attempted to reach.

Senator SIMPSON. Mr. Minogue.

Mr. MINOGUE. Let me first make a brief comment on what the American Physical Society review was. Basically, we asked them to take a hard look at the fundamental science base that we had developed in a program that was looking at very complex processes and very complex fission product behavior. It was in a sense a quality control check before we moved into a decisionmaking process, to get a prestigious, well-qualified group of people to look at the underlying science.

If you look at it that way, I think that the main areas that they spoke to that would reflect on the need for future research, first, was the question of the behavior of fuel in the reactor core during an accident where I think it is not unfair to characterize that by and large they indicated that the work already done and in progress was quite adequate. What they did indicate as an area of potential problems is an area that was cut out of previous year's budget cuts, and that was some expanded work in relationship to core-concrete interactions and the behavior of fission products in really extreme accidents. They go into very unlikely, very low probability events.

That becomes a judgment call that requires you to go back and look at the question of accident probabilities. Whereas, if you say, assume an accident happens regardless, do you need to understand these phenomena to deal with it, the answer would be yes. But if you say what is the probability of the accident and does it then warrant doing a research program to evaluate the behavior in that sequence, that is a call that goes beyond the scope of what they looked at.

As far as our reaction to the report, we are still studying it. I think they did an excellent job, and I am really very encouraged with the good findings they made on some of the work. They have raised some questions we need to deal with. Commissioner Asselstine just identified a few of them, but that is the next step.

Senator SIMPSON. It is interesting, as you read the media reports on the peer review, the impression one would be left with is that nothing positive came out of the more than $200 million that we invested to try to get a better understanding of radioactive releases in the event of an accident. Yet, the report stated very specifically, "the quantity of radionuclides that would reach the environment is much lower than was predicted 10 years ago." How fascinating that that seems to escape the reporting, but there is nothing new in that in my time here.

Are we really then left with the either/or proposition, either spend more money and time on research or do nothing? Or do the results of this source term work suggest it might be wise to go back and look at the regulations that were based on what the APS now suggests were perhaps overly conservative assumptions?

Mr. MINOGUE. I think the press coverage was quite inaccurate, Senator, and I don't feel any need to discuss that. The committee report speaks for itself in terms of the general summary. I think it was primarily or largely supportive. They did indicate some specific areas of phenomenology that do not involve very large programs where we may need to reexamine some of our priorities or the distribution of some of the work, but I don't think we are looking at a substantial expansion or a substantial redirection of the program. I think the report was largely supportive.

Senator **Simpson**. Time is limited, but we certainly will want to pursue that and I think also the areas of emergency planning as it relates to that. That will be another visitation from us.

Mr. **Bernthal**. Just a very brief comment. Without trying to go into detail on all of my own opinions about the APS report, I think that it deserves a very, very careful reading between the lines, if I may say so. I think that report was very carefully crafted, that every paragraph was sort of lovingly put together, I might say, by——

Senator **Simpson**. It should have been for $200 million.

Mr. **Bernthal**. I guess so. There is a good deal that is between the lines there. A good deal is being said, I think, about the overall way in which we have approached research in these areas. I am not prepared to come up with hard and fast conclusions yet, but I certainly have a number of opinions that I think are found in that study if one wants to look for them.

Senator **Simpson**. Thank you.

Mr. **Asselstine**. I would agree. I would agree with your comment as well that I think the report was mischaracterized or misinterpreted in some of the press reviews of it. I agree with what Mr. Minogue said. It is a useful document. It helps confirm that we have been on the right direction in the areas of emphasis of our research in many respects. It helped identify a few others we need to look at further.

However, on the misimpressions and misinterpretations, I have to say that I think part of the fault was the expectations that had been created in this area. The expectations were quite high that there were going to be sweeping conclusions that would result in radical changes to our regulations and our program. And the American Physical Society didn't come out that way.

I think part of the misconception was created by the American Nuclear Society report. If you read that report and, particularly, their press release, it certainly led to the expectation that when the American Physical Society came out there would be very major changes and sweeping conclusions, and they weren't there. I think one of the benefits of the American Physical Society review was that it provided a very distinguished and very scientific review of the information that is there now and what isn't there and the degrees of uncertainty, and I think that is a big contribution in this area.

Mr. **Palladino**. Mr. Simpson, may I make one comment?

Senator **Simpson**. Yes.

Mr. **Palladino**. With regard to the quote about $200 million involved, lest that be misunderstood to imply that the NRC has spent $200 million on that, let me correct that impression if it exists. The contract with APS was for about one half a million dollars. But if you add up all the NRC costs for the last 4 to 5 years that have been spent on severe accident research (of which source term is a subset) it would come up to about $250 million.

Senator **Simpson**. That is the total on that; that is true.

Well, a couple other things. One thing that concerns me is we are advised by the NRC staff that the procedural requirements of approving the no significant hazards consideration amendments, the so-called Sholly authority that we went through a couple years ago on that exercise, that may be discouraging the NRC licensees from submitting requests for amendments that will result in improvements in safety. Now that we have had about 2 years' of experience in implementing the Sholly provisions, what are the Commission's reviews on how that authority is working?

Mr. PALLADINO. We might first begin by asking Mr. Denton to speak to our actions on the Sholly.

Mr. DENTON. Let me summarize, Senator, by saying we don't have a walk-away licensing process. After we issue a license, it is not unusual for the utility to want to begin making other changes in the license. Because of operating experience and things that go wrong, we may be requiring that he make some changes in his license.

Just by way of example, take San Onofre unit 2 which we licensed only a few years ago. He has requested a half a dozen major changes in his plant, changes in the fuel, the shutdown cooling system, auxiliary feed water, effluent monitoring, core protection, calculators, and this kind of thing. He has experienced failures in steam generator tubes, fuel failures, scram breakers.

All of this led to our issuing, in just these couple of years since we licensed that plant, over 50 amendments, and there are dozens of amendments still pending on that plant today. Each of these amendments must be noticed under Sholly. Today, I issue about 50 pages' worth of Federal Register notices a month.

So, if you take the entire impact of Sholly, it is much more impact now than pre-Sholly. It requires more legal attention, more technical attention, more administrative attention. I look back for a sample. I have issued over 1,800 notices since Sholly, and I think we had requests for hearings on 9 of those instances.

Mr. ASSELSTINE. Mr. Chairman, I would like to add a comment, if I could, on this. One of the concerns I hear when I travel around to some of the plants is that the amount of work that the utility has to do to support their amendments and the length of time it takes to process the amendments has gone up fairly substantially since the Sholly provision was enacted and since we developed our regulations.

I think a good part of that is due to the fact that what we do is, before we initially notice these amendments and give people an opportunity to request a hearing, the staff does its review of whether they believe, at least, initially, that a significant hazard consideration is involved in the amendment. So, they do the technical analysis up front before the original notice is put in the Federal Register.

What that means is the staff and, because they go to the licensee for information, the licensees have to develop a substantial amount of information and do the work up front. As Mr. Denton has pointed out, in only a few instances do people actually ask for hearings and only in those instances does it really become significant whether there is a significant hazard consideration involved or not because that is the determination on whether the hearing has to occur before or after the amendment is issued.

One thing I think we could consider doing is doing the analyses only in those cases where people ask for a hearing. I think you would cut down substantially in the burden, both on the staff and on the licensees. I think that is something we ought to take a look at.

Senator **SIMPSON**. I do, too. I think you have gone way beyond what was required there in your zeal and might get back to what we were up to in the first place. I think it would be a very excellent idea in that area. I appreciate always the views of the senior staff there.

Let me ask you another one. According to recent reports, the NRC is now discussing with the Department of Labor how to interpret section 210 of the Atomic Energy Act and, in particular, whether that provision protects an employee who reports a quality control concern to his employer protecting him from subsequent retaliation by the employer. What is the status of your discussions with the DOL here? Is that an area where further legislation might be needed, and what, in your judgment, would be the consequences of a narrow interpretation along the lines of what Labor has suggested for the NRC's quality assurance responsibilities?

Mr. **PALLADINO**. Mr. Simpson, the circumstances, I believe, are somewhat as follows, and I can ask our general counsel to expand, if you would like. There was a case, and I believe it involved Brown and Root, and the court ruled that since that individual had made his complaints to his own company and not to the NRC, therefore he didn't receive the protection of the law. The Department of Labor chose not to appeal. We encouraged them to try to appeal, but then we continued our dialog despite the fact that they were not inclined to appeal on that one and got them to agree that we would lose a lot of benefit from that narrow ruling.

There is another case coming up, and I hate to try to remember the name, but I will ask our general counsel to give it to you, where there has been agreement that we will follow through with necessary appeal.

Marty?

Mr. **MALSCH**. I am Martin G. Malsch, deputy general counsel.

We have discussed this matter with both the Departments of Labor and Justice. Our view as to that section 210 should be read more broadly than the fifth circuit had read it will now be adopted by those departments and will be advocated in another case which is pending before the 10th circuit involving Kansas Gas and Electric Co. We are working with them now on presenting the Government's position in that case.

Senator **SIMPSON**. Well, the present interpretation doesn't lead to what I would think would be the best result, I guess I am saying.

Mr. **BERNTHAL**. We think it just quite simply would jerk the rug out from under the whole regulatory framework we try to have with our licensees.

Senator **SIMPSON**. I do, too.

Mr. **PALLADINO**. Mr. Simpson, you asked us whether we thought that legislation would be needed. I would be inclined to wait to see what comes out of the present case, and then we may have some suggestions to make or not to make.

Senator **Simpson**. Fine.

Well, I have other questions. I am going to submit them in writing.

We will get into, later in the year, some things I know that concern all of you. They do me and the subcommittee, and that is how are we doing 6 years after Three Mile Island. I remember wandering in here as the ranking minority member of this subcommittee and having all my suits bleached out by the lights there. I hadn't prepared for that. I didn't, as I say, know much at all. I have learned a lot more, and many of you in this room have helped me with that education, some from the witness table, some senior staff, and I have appreciated that, but you know we are not really much further along than we were, because we allow these issues to be frozen in place by an interesting array of people from the right and the left and the middle and over the moon and everywhere else while we just labor along in fear, and fear is the word I want to use. There ain't a better one.

Let's see where we are with training and those requirements and education. We are going to have a hearing in that general area.

We are also going to pursue this area of a single administrator. I am convinced that if we had another Three Mile Island, none of us in this room would want to sit through 5 or 6 days of that communication gridlock. Since that is the case, it seems to me we ought to be about our business of a single administrator. At least, that person, whoever that would be, could wander down the hall and visit with somebody else without being hammered flat by a battery of people interpreting the sunshine laws and regulations that just literally are a web to prevent communication.

The people of America deserve better, and they think they have better. They think they have a collegial body that visits with each other, and they don't have nothing like that, absolutely nothing. If this is a collegial body, then I don't know what college meant. I know what I thought it meant when I was in it. It was an interaction and rap sessions, and the stuff that goes with a collegial body. You don't have that, and you are never going to get it. If we can't get it, we might just as well move on to something else.

Well, with those remarkable observations, I want to thank you very much for sharing with us some of your thoughts and the divergence of your thoughts. That is very important. Again, I commend the senior staff whom I know labor along in sometimes a tough situation. I thank you for that, for your patience and your devotion.

With that, we will conclude the hearing, and I thank you very much.

Mr. **Palladino**. Thank you, Mr. Chairman.

[Chairman Palladino's written statement, the report to the Subcommittee on Energy and Water Development referred to by Chairman Palladino, responses to written questions, and a statement from the Gas-Cooled Reactor Associates follow:]

PREPARED TESTIMONY

SUBMITTED BY

NUNZIO J. PALLADINO, CHAIRMAN

U. S. NUCLEAR REGULATORY COMMISSION

TO THE

SUBCOMMITTEE ON NUCLEAR REGULATION

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

UNITED STATES SENATE

CONCERNING THE

NUCLEAR REGULATORY COMMISSION'S

BUDGET REQUEST FOR FY 1986 AND FY 1987

MARCH 7, 1985

U.S. NUCLEAR REGULATORY COMMISSION
FY 1986 BUDGET STATEMENT

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, THE COMMISSION APPEARS BEFORE YOU TODAY TO DISCUSS NRC'S FY 1986 BUDGET REQUEST. WITH ME TODAY ARE MY FELLOW COMMISSIONERS, THE EXECUTIVE DIRECTOR FOR OPERATIONS AND THE DIRECTORS OF THE PRINCIPAL OFFICES OF THE COMMISSION.

OVERVIEW

I WILL BEGIN BY SAYING THAT THIS IS THE FIRST TIME THAT THE BUDGET REQUEST FOR NRC RESOURCES FOR THE NEXT FISCAL YEAR IS FOR LESS THAN THE AMOUNT APPROPRIATED FOR THE CURRENT FISCAL YEAR. AS YOU KNOW, WE ASKED OMB TO INCREASE OUR FY 1986 BUDGET. THE ADDITIONAL RESOURCES WERE FOR PROGRAMS THAT THE COMMISSION BELIEVES ARE IMPORTANT TO OUR REGULATORY MISSION. WHILE WE RECOGNIZE THERE ARE STRONG FISCAL PRESSURES CREATED BY

THE FEDERAL DEFICIT, WE MUST MAKE IT CLEAR THAT, WITHIN THE OMB APPROVED AMOUNT FOR FY 1986, THE NRC WILL BE ABLE TO CARRY OUT ONLY ITS MOST ESSENTIAL PROGRAMS.

THE TOTAL BUDGET REQUEST IS FOR $429 MILLION. THIS IS APPROXIMATELY $20 MILLION BELOW OUR FY 1985 PROGRAM. THIS REDUCED AMOUNT ANTICIPATES THAT THE ADMINISTRATION'S PROPOSED 5% PAY CUT WILL BE ENACTED BY CONGRESS; IF IT IS NOT, WE WILL BE SHORT $8.6 MILLION.

WITHIN THE $429 MILLION BUDGET REQUEST SUBMITTED TO CONGRESS, A NUMBER OF PROPOSED PROJECTS HAVE TO BE DELETED OR DEFERRED. THE REQUEST REPRESENTS A MINIMUM PROGRAM. IT WILL IMPAIR THE COMMISSION'S ABILITY TO TAKE A NUMBER OF FORWARD-LOOKING ACTIONS NECESSARY TO MOVE BEYOND TODAY'S PROBLEMS AND IMPROVE THE PROCESS FOR DEALING WITH TOMORROW'S ISSUES.

AMONG THE MOST IMPORTANT PROBLEMS WE WILL FACE IS KEEPING PACE WITH SOME ASPECTS OF DOE'S NATIONAL WASTE MANAGEMENT ACTIVITIES. IF THE PRESENT DOE SCHEDULE IS MAINTAINED, OUR BUDGET LIMITATIONS COULD DELAY DOE'S INITIATION OF SHAFT CONSTRUCTION AND AT-DEPTH SITE CHARACTERIZATION WORK BY AS MUCH AS SIX MONTHS.

BEFORE TURNING TO THE SPECIFICS OF THE BUDGET, WE WILL HIGHLIGHT SOME OF NRC'S MOST SIGNIFICANT ACCOMPLISHMENTS OVER THE PAST FISCAL YEAR AND THE FIRST SEVERAL MONTHS OF FY 1985 AS WELL AS SOME SPECIAL OBJECTIVES WE PLAN TO PURSUE.

PAST ACCOMPLISHMENTS

PROBLEMS FACED IN OPERATING PLANTS HAVE BEEN DEALT WITH EFFECTIVELY. NINE NEW LOW POWER REACTOR OPERATING LICENSES AND EIGHT OTHER FULL POWER AUTHORIZATIONS HAVE BEEN ISSUED DURING THE LAST SEVENTEEN MONTHS. WE HAVE APPROVED A POLICY ON THE

HANDLING OF LATE-FILED ALLEGATIONS WHICH WILL PRESCRIBE SCREENING CRITERIA SIMILAR TO THOSE USED IN THE DIABLO CANYON CASE. SEVERAL SIGNIFICANT RULES HAVE BEEN PUBLISHED, SUCH AS, THE WASTE CONFIDENCE RULE, THE RULE ON ANTICIPATED TRANSIENTS WITHOUT SCRAM (ATWS), AND THE HYDROGEN CONTROL RULE. NUMEROUS CHANGES WERE MADE IN REGULATORY REQUIREMENTS AND SUPPORTING GUIDANCE BASED ON THE RESULTS OF OUR RESEARCH PROGRAM. WE HAVE KEPT PACE WITH DOE'S REPOSITORY DEVELOPMENT PROGRAM, AND HAVE MET OUR MILESTONES UNDER THE NUCLEAR WASTE POLICY ACT SO FAR.

WE HAVE BEEN WORKING HARD TO IMPROVE THE STABILITY AND PREDICTABILITY OF OUR REGULATORY PROCESS. FOR EXAMPLE, THE COMMISSION HAS NEARLY COMPLETED WORK ON A POLICY STATEMENT ON SEVERE ACCIDENTS. CONSISTENT WITH THAT STATEMENT AND WITH OUR GOAL TO ACHIEVE STABILITY IN THE LICENSING PROCESS, THE NRC WILL ALSO ENCOURAGE THE DEVELOPMENT OF STANDARDIZED PLANT DESIGNS BY INDUSTRY. THE COMMISSION IS ALSO PREPARING TO ISSUE

A FINAL BACKFIT RULE WHICH WILL IMPROVE THE METHODS FOR ADMINISTERING THE IMPOSITION OF NEW REQUIREMENTS ON LICENSEES.

WE HAVE PROVIDED THE CONGRESS WITH REVISED LICENSING AND STANDARDIZATION LEGISLATION WHICH IS SIMILAR TO THAT SUBMITTED TWO YEARS AGO, BUT WHICH NOW FOCUSES ON ONLY THREE MAJOR REFORMS: STANDARDIZATION, EARLY SITE APPROVAL, AND ONE-STEP LICENSING. WE HOPE THE CHANGES WILL GREATLY ENHANCE ITS CHANCES OF ENACTMENT THIS YEAR.

SPECIAL OBJECTIVES

NRC'S PRINCIPAL ATTENTION WILL CONTINUE TO BE DIRECTED AT MAINTAINING THE SAFETY OF NUCLEAR FACILITIES. NEVERTHELESS, THE COMMISSION HAS ESTABLISHED CERTAIN SPECIAL OBJECTIVES TO MAINTAIN THE LONG-TERM VIABILITY OF THE NATION'S NUCLEAR OPTION. WE WILL TRY TO ACHIEVE THESE OBJECTIVES WITHIN THE CONSTRAINTS IMPOSED BY THE BUDGET. THESE ARE TO:

- IMPLEMENT A SAFETY GOAL WITH THE OBJECTIVE OF DEFINING TO THE INDUSTRY AND THE PUBLIC THE ACCEPTABLE LIMITS FOR NUCLEAR PLANT RISKS;

- CONTINUE THE REASSESSMENT OF RADIOACTIVE SOURCE TERMS USED IN ANALYZING THE RELEASE AND TRANSPORT OF RADIOACTIVITY DURING A NUCLEAR ACCIDENT, AND, IF APPROPRIATE, IMPLEMENT THEM INTO THE REGULATORY PROCESS;

- IMPLEMENT THE POLICY STATEMENT ON SEVERE ACCIDENTS;

- PREPARE CRITERIA FOR EARLY REVIEW OF ADVANCED REACTOR CONCEPTS AND DESIGNS;

- SET FORTH A PROCEDURE FOR REVIEW AND APPROVAL OF STANDARD PLANT DESIGNS AND PREAPPROVAL OF PLANT SITES;

-- DETERMINE APPROPRIATE WAYS TO INCORPORATE INDUSTRY SAFETY INITIATIVES IN NUCLEAR REGULATION.

NRC BUDGET

WE WOULD LIKE TO TURN NOW TO THE SUBJECT OF THE BUDGET REQUEST FOR NRC. BEFORE HIGHLIGHTING OUR FOUR MAJOR PROGRAMS, WE WANT TO ADDRESS THREE ASPECTS OF THE BUDGET WORTHY OF SPECIAL EMPHASIS: RESOURCES FOR OUR OPERATING REACTOR PROGRAMS, RESEARCH FUNDING, AND NRC ORGANIZATION.

ADEQUATE RESOURCES FOR OPERATING PLANTS

FIRST WE ARE CONCERNED THAT NRC BUDGET CUTS ARE BEING CONSIDERED UNDER THE ASSUMPTION THAT, IN THE ABSENCE OF NEW PLANT ORDERS, THE RESOURCES USED TO LICENSE PLANTS NOW IN THE PIPELINE WILL NO LONGER BE NEEDED. THIS IS JUST NOT THE CASE.

NRC RESOURCES ARE REQUIRED FOR A PLANT FROM THE TIME A LICENSE APPLICATION IS SUBMITTED UNTIL AFTER IT IS DECOMMISSIONED.

THERE TENDS TO BE A PERCEPTION THAT WE EXPEND MANY MORE RESOURCES TO LICENSE A PLANT THAN TO ASSURE ITS OPERATIONAL SAFETY ONCE LICENSED. THIS IS NOT CORRECT. ONCE A PLANT IS LICENSED TO OPERATE, LICENSING ACTIONS CONTINUE TO BE NEEDED TO CORRECT INADEQUACIES IN PLANT DESIGN AND OPERATION THAT ARE IDENTIFIED FROM OPERATING EXPERIENCE AND FROM THE RESOLUTION OF SAFETY ISSUES. SAFETY EVALUATIONS MUST BE PERFORMED TO ENSURE THAT THESE LICENSING ACTIONS ARE CONSISTENT WITH NRC REQUIREMENTS. IN ADDITION, UNANTICIPATED EVENTS MUST BE REVIEWED FOR SAFETY SIGNIFICANCE. AS A RESULT OF THE INCREASING NUMBER OF OPERATING REACTORS, MORE OPERATOR EXAMINATIONS MUST BE CONDUCTED.

ALSO, FOR NEW OPERATING PLANTS WE NEED RESOURCES TO CONTINUE TO CONDUCT RESIDENT, REGION-BASED AND PERFORMANCE APPRAISAL TEAM

INSPECTIONS, TO ANALYZE OPERATIONAL DATA, TO SYSTEMATICALLY APPRAISE LICENSEE PERFORMANCE, TO ISSUE BULLETINS AND ORDERS, TO PROCESS ENFORCEMENT ACTIONS, TO EVALUATE EMERGENCY PREPAREDNESS EXERCISES, AND TO PERFORM REACTOR SAFEGUARDS REVIEWS ON A CONTINUING BASIS.

WE CONSIDER IT ESSENTIAL THAT ALL THE FOREGOING OPERATIONAL ACTIVITIES CONTINUE AT THEIR PRESENT LEVEL OF EFFORT. IN OUR BUDGET REQUEST, WE HAVE ACCOMPLISHED THIS BY REALLOCATING RESOURCES BASED ON OUR PROJECTED LICENSING SCHEDULE, I.E. AT THE POINT WHERE PLANTS ARE PROJECTED TO BE LICENSED, THE ASSOCIATED RESOURCES ARE THEN SHIFTED TO MONITOR THE COMMENSURATE INCREASES IN NEW OPERATING FACILITIES. IF OUR BUDGET WERE TO BE REDUCED FURTHER, TO THE POINT WHERE WE WOULD HAVE NO OTHER CHOICE BUT TO CUT BACK SOME OF OUR OPERATIONAL ACTIVITIES THAT HAVE BEEN STRENGTHENED IN RECENT YEARS, SAFETY COULD BE ADVERSELY IMPACTED.

IN ADDITION, I WOULD EMPHASIZE TO THE SUBCOMMITTEE THAT THE NRC HAS IMPORTANT REGULATORY FUNCTIONS IN OTHER AREAS AS WELL, SUCH AS, SAFEGUARDS, EXPORTS, TRANSPORTATION, MATERIALS LICENSING (THERE ARE APPROXIMATELY 9000 ACTIVE MATERIALS LICENSES), URANIUM RECOVERY, AND A WIDE SPECTRUM OF RADIOACTIVE WASTE MANAGEMENT ACTIVITIES. THESE MANDATORY ACTIVITIES MUST CONTINUE AND REQUIRE NRC RESOURCES APART FROM NRC'S LICENSING RESPONSIBILITIES FOR OPERATING PLANTS.

RESEARCH PROGRAM FUNDING LEVEL

OUR SECOND MAJOR CONCERN IS THE EXTENT TO WHICH WE HAVE HAD TO CUT BACK OUR RESEARCH PROGRAM OVER THE YEARS. IN FY 1986 RESEARCH FUNDING WILL BE DOWN MORE THAN $85 MILLION FROM FY 1981 - ABOUT A 40% REDUCTION. YOU CAN SEE BY THE CHART AT APPENDIX A THAT IN TERMS OF CONSTANT DOLLARS OUR RESEARCH BUDGET WILL BE SLIGHTLY LOWER IN FY 1986 THAN IT WAS WHEN THE AGENCY WAS FORMED 10 YEARS AGO.

WE HAVE HAD TO REDUCE RESEARCH FUNDS BECAUSE THE MAGNITUDE OF THE BUDGET CUTS WE HAVE TAKEN, COUPLED WITH THE REQUIREMENT TO ABSORB PAY RAISES AND OTHER INCREASED COSTS, HAS LEFT US ESSENTIALLY NO OTHER CHOICE.

BASICALLY, WE HAVE TWO TYPES OF PROGRAMMATIC FUNDS -- FUNDS USED TO LICENSE FACILITIES AND MONITOR THEIR CURRENT OPERATION AND RESEARCH FUNDS WHICH ARE USED PRIMARILY TO DEAL WITH ANTICIPATED FUTURE PROBLEMS. WE HAVE LITTLE OR NO FLEXIBILITY WITHIN THE NON-RESEARCH COMPONENT; THESE FUNDS SUPPORT OUR SAFETY, SAFEGUARDS AND ENVIRONMENTAL EVALUATIONS OF LICENSE APPLICATIONS, INSPECTIONS, THE RESOLUTION OF SAFETY ISSUES, THE REVIEW OF LICENSING ACTIONS, AND MANY OTHER NECESSARY ONGOING ACTIVITIES. THUS, TO STAY CURRENT WITH OUR DAY-TO-DAY REGULATORY RESPONSIBILITIES, RESEARCH HAS HAD TO ABSORB THE MAJOR PORTION OF OUR CUTBACKS.

A STABLE, CONTINUING PROGRAM OF RESEARCH IS ESSENTIAL FOR THE COMMISSION TO CARRY OUT ITS RESPONSIBILITIES. OUR RESEARCH PROGRAM PROVIDES US WITH THE KIND OF SOUND TECHNICAL INFORMATION WE NEED TO DEAL EFFECTIVELY WITH EMERGING COMPLEX TECHNICAL ISSUES. WHEN INFORMATION DEVELOPED BY OUR RESEARCH PROGRAM IS LACKING, WE OFTEN HAVE TO REQUIRE FACTORS OF SAFETY TO COMPENSATE FOR OUR LACK OF KNOWLEDGE. IF, AS IS OFTEN THE CASE, SUCH FACTORS ARE OVERLY CONSERVATIVE, AN UNNECESSARY BURDEN MAY BE PLACED ON THE INDUSTRY AND THE PUBLIC.

ABSENT NEEDED SAFETY INFORMATION DEVELOPED BY OUR OWN RESEARCH PROGRAM, WE COULD BE FORCED INTO A VERY UNDESIRABLE REGULATORY POSTURE -- ONE THAT COULD REQUIRE THE NRC TO EITHER SHUT DOWN SOME OPERATING FACILITIES OR DELAY LICENSING OTHERS UNTIL THE NECESSARY TECHNICAL DATA HAVE BEEN OBTAINED TO RESOLVE IDENTIFIED SAFETY ISSUES. EITHER ALTERNATIVE WOULD BE MORE COSTLY TO THE PUBLIC THAN THE ADEQUATE FUNDING OF OUR RESEARCH PROGRAM.

THIS IS NOT A HYPOTHETICAL ARGUMENT. THE FOLLOWING SAFETY ISSUES ARE TWO GOOD EXAMPLES OF RECENT RESEARCH PROGRAM BENEFITS.

IN THE FIRST INSTANCE, THE AVAILABILITY OF NRC RESEARCH IN MATERIALS AND THERMAL HYDRAULICS COUPLED WITH RISK ANALYSIS METHODS FOR PRESSURIZED THERMAL SHOCK CONTRIBUTED TO A DECISION THAT AVOIDED THE UNNECESSARY SHUTDOWN OF SEVERAL REACTORS. THE SECOND INVOLVED CRACKS IN BOILING WATER REACTOR PIPES. AGAIN, AVAILABLE NRC RESEARCH RESULTS MADE IT POSSIBLE FOR US TO MAKE PROMPT TECHNICAL DECISIONS THAT PRECLUDED LONG PLANT SHUTDOWNS.

THE NRC IS REALLY THE ONLY ORGANIZATION IN THE UNITED STATES THAT HAS SUSTAINED THE TECHNICAL BASE NEEDED TO ASSURE THE SAFE OPERATION OF LIGHT WATER REACTORS.

NRC ORGANIZATION

THE THIRD AREA OF SPECIAL INTEREST IS WITH THE NRC ORGANIZATION. THE COMMISSION IS CONTINUING TO CONSIDER POSSIBLE READJUSTMENTS IN NRC'S ORGANIZATIONAL STRUCTURE AND THE USE OF STAFF IN AN EFFORT TO USE AGENCY RESOURCES MORE EFFECTIVELY AND EFFICIENTLY, AND POSSIBLY TO REDUCE FURTHER THE NUMBER OF PEOPLE REPORTING DIRECTLY TO THE COMMISSION. ANY ECONOMIES WE MIGHT ACHIEVE WILL BE APPLIED TO MEET OUR HIGHEST PRIORITY ACTIVITIES THAT CANNOT BE FUNDED TODAY.

ONE OF THE OFFICES THAT CURRENTLY REPORTS TO THE COMMISSION IS THE OFFICE OF INVESTIGATIONS (OI). WHETHER OR NOT THIS OFFICE SHOULD CONTINUE TO REPORT TO THE COMMISSION IS A MATTER STILL UNDER CONSIDERATION. UNTIL NOW, IT HAS REMAINED AT OR BELOW THE STAFFING LEVEL OF 38 THAT WAS ESTABLISHED BACK IN 1982. WE HAVE INCLUDED SIX MORE FTE FOR OI IN FY 1986.

BUDGET HIGHLIGHTS

WE REFER YOU NOW TO APPENDIX B WHICH IS A RESOURCE SUMMARY FOR OUR MAJOR BUDGET CATEGORIES.

RESOURCES FOR OUR NUCLEAR REACTOR REGULATION PROGRAM WILL BE ABOUT THE SAME IN FY 1986 AS THEY ARE IN FY 1985. WITHIN THE PROGRAM, HOWEVER, THERE WILL BE SOME SIGNIFICANT ADJUSTMENTS. WHILE RESOURCES DEVOTED TO REACTOR LICENSING WILL DECREASE AS MORE OPERATING LICENSES ARE ISSUED, RESOURCE REQUIREMENTS WILL INCREASE FOR SAFETY RELATED LICENSING ACTION REVIEWS AND PROJECT MANAGEMENT FUNCTIONS COMMENSURATE WITH THE INCREASING NUMBER OF OPERATING REACTORS. FOR EXAMPLE, MORE LICENSING ACTIONS ARE PLANNED FOR OPERATING PLANTS IN FY 1986 THAN IN FY 1985. WE WILL CONTINUE TO CONDUCT AN ACTIVE REACTOR OPERATOR LICENSE EXAMINATION PROGRAM, COMPLETE THE RESOLUTION OF MORE UNRESOLVED AND HIGH PRIORITY GENERIC SAFETY AND HUMAN FACTORS

ISSUES, AND WORK ON INITIATIVES RELATED TO SEVERE ACCIDENTS AND SAFETY GOALS.

THE RESOURCES PROPOSED FOR OUR INSPECTION AND ENFORCEMENT PROGRAM IN FY 1986 INCLUDE AN INCREASE IN FTE WHILE FUNDING STAYS ESSENTIALLY LEVEL. WE ARE EXPANDING THE RESIDENT INSPECTOR PROGRAM TO INCLUDE A SECOND RESIDENT AT CONSTRUCTION SITES, AT REACTORS WHILE IN PRE-OPERATIONAL TESTING AND AT ABOUT ONE-HALF OF THE SINGLE UNIT OPERATING SITES. THIS ACTION WILL SUBSTANTIALLY INCREASE ON-SITE INSPECTION TIME. SOME OF THE QUALITY ASSURANCE INITIATIVES PRESENTED TO CONGRESS IN FY 1984 WILL BE DEVELOPED FOR APPLICATION TO OPERATING PLANTS AND TO THOSE UNDER CONSTRUCTION, BUT INITIATIVES RELATED ONLY TO FUTURE APPLICATIONS FOR CONSTRUCTING NUCLEAR PLANTS WILL NOT BE PURSUED BECAUSE OF RESOURCE LIMITATIONS. OTHER INSPECTION AND ENFORCEMENT PROGRAMS WILL BE RETAINED AT ESSENTIALLY THEIR FY 1985 LEVELS.

IN THE NUCLEAR MATERIALS SAFETY AND SAFEGUARDS PROGRAM, FUNDING WILL REMAIN ESSENTIALLY LEVEL IN FY 1986 WHILE FTE WILL INCREASE TO ACCOMPLISH NUMEROUS WASTE MANAGEMENT ACTIVITIES. FOREMOST AMONG THESE ARE EXTENSIVE PREAPPLICATION REVIEWS OF DOE SITE INVESTIGATIONS, ANALYSES OF DOE'S SITE CHARACTERIZATION PLANS FOR THREE POTENTIAL REPOSITORY SITES, AND RULEMAKING TO AMEND REGULATIONS TO CONFORM TO THE REQUIREMENTS OF THE NUCLEAR WASTE POLICY ACT. ADDITIONAL RESOURCES ALSO ARE REQUESTED TO IDENTIFY AND RESOLVE ISSUES ASSOCIATED WITH SPENT FUEL SHIPMENT AND STORAGE. OTHER EFFORTS IN FY 1986 INCLUDE COMPLETION OF THOUSANDS OF FUEL CYCLE AND NUCLEAR MATERIAL LICENSING CASES AND THE CONDUCT OF A LIMITED NUMBER OF OPERATING REACTOR SAFEGUARDS REGULATORY EFFECTIVENESS REVIEWS.

THE RESOURCES OF THE NUCLEAR REGULATORY RESEARCH PROGRAM WILL BE SIGNIFICANTLY REDUCED IN FY 1986. OUR COOPERATIVE RESEARCH PROGRAMS WITH THE U.S. NUCLEAR INDUSTRY AND FOREIGN PARTNERS

WILL BECOME INCREASINGLY IMPORTANT IN LIGHT OF CURRENT FISCAL CONSTRAINTS. NRC RESEARCH WILL FOCUS PRIMARILY ON THE FOLLOWING:

-- AGING: TO CHARACTERIZE THE DEGRADATION OF BOTH EQUIPMENT AND STRUCTURES IMPORTANT TO SAFE OPERATION OF REACTORS.

-- SOURCE TERMS: TO USE ENGINEERED DATA AS THE TECHNICAL BASES FOR REGULATORY ACTIONS REGARDING EMERGENCY PLANNING AND SITING GUIDELINES.

-- SEVERE ACCIDENTS: TO CONTINUE RESEARCH IN SUCH AREAS AS SEVERE ACCIDENT SEQUENCE ANALYSIS, DAMAGED FUEL, AND FISSION PRODUCT RELEASE IN ORDER TO PROVIDE A SOUND TECHNICAL BASIS FOR DECISIONS NEEDED TO IMPLEMENT NRC'S SEVERE ACCIDENT POLICY.

-- WASTE MANAGEMENT: TO CONDUCT RESEARCH ON DEVELOPMENT OF TOOLS FOR EVALUATING DOE'S PROPOSED NUCLEAR WASTE REPOSITORY.

-- THERMAL/HYDRAULICS: TO ASSESS COMPUTER CODES USED BY LICENSING STAFF TO EVALUATE THE SAFETY RESPONSE OF THE VARIOUS U.S. DESIGNED PLANTS TO A WIDE RANGE OF TRANSIENTS AND ACCIDENTS. AND

-- SEISMIC ANALYSIS: TO DETERMINE THE PREDICTABILITY OF LEVELS OF SEISMIC EVENTS AT REACTOR SITES, TO PREDICT THE RESPONSE OF THE SITE AND THE PLANT TO THESE EVENTS, AND TO DETERMINE THE POSSIBILITY OF COMPONENT FAILURE AND EFFECT OF SUCH FAILURE ON PLANT SAFETY.

TIGHT FISCAL CONSTRAINTS MAKE IT IMPERATIVE THAT DECISIVE ACTION BE TAKEN TO IMPROVE NRC'S EFFICIENCY AND EFFECTIVENESS. IN THIS REGARD, I WANT TO NOW ADDRESS THE CONTINUING PROBLEM OF

NRC BUILDING CONSOLIDATION AND MY PERSONAL VIEWS ON THE SUBJECT OF THE NRC CHAIRMAN'S AUTHORITY.

BUILDING CONSOLIDATION

AS YOU KNOW, WE HAVE FOR TEN YEARS BEEN HINDERED BY THE EXPENSIVE AND TIME CONSUMING PROCESS OF TRAVELING BACK AND FORTH BETWEEN OUR VARIOUS LOCATIONS. WE CONTINUE TO WORK WITH GSA TO FIND A WAY THAT WOULD PERMIT US TO CONSOLIDATE. HOWEVER, CONSOLIDATION HAS NOT YET MATERIALIZED. THUS, WE STRONGLY RECOMMEND THAT THE SUBCOMMITTEE MANDATE CONSOLIDATION NOT LATER THAN THE END OF FY 1986 IN A SINGLE LOCATION IN THE DISTRICT OF COLUMBIA OR IN BETHESDA, MARYLAND. THE MANDATE SHOULD INCLUDE WHATEVER FUNDING PROVISIONS ARE NECESSARY TO ACHIEVE FULL CONSOLIDATION BY THAT TIME.

CHAIRMAN'S AUTHORITY

BEFORE CLOSING, I WOULD LIKE TO COMMENT BRIEFLY ON THE SUBJECT OF THE NRC CHAIRMAN'S AUTHORITY. MY REMARKS ARE PERSONAL IN NATURE AND DO NOT NECESSARILY REPRESENT THE COLLECTIVE VIEWS OF THE COMMISSION.

ON JANUARY 23, 1985 I REPORTED TO THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT ON WHAT I THINK SHOULD BE DONE TO IMPROVE THE CURRENT COMMISSION STRUCTURE. THAT REPORT ALSO ADDRESSED LIMITATIONS ON THE CONDUCT OF COMMISSION BUSINESS AS A RESULT OF THE SUNSHINE ACT AND EX PARTE CONSIDERATIONS. WITH YOUR PERMISSION, I WOULD LIKE TO HAVE MY REPORT MADE A PART OF THE RECORD. I ESPECIALLY URGE YOU TO CAREFULLY CONSIDER THE MERITS OF THE PROPOSED SINGLE ADMINISTRATOR CONCEPT. I FURTHER URGE YOU TO SUPPORT LEGISLATION ALONG THIS LINE. IN MY OPINION, IT WOULD BE ONE OF

THE MOST IMPORTANT ACTIONS THE CONGRESS COULD TAKE TO MAKE THE AGENCY FUNCTION MORE EFFECTIVELY AND EFFICIENTLY.

1987

IN ACCORDANCE WITH THE BIENNIAL AUTHORIZATION PROCEDURES, THE NRC ALSO IS PROVIDING FY 1987 PLANNING ESTIMATES. THESE PLANNING ESTIMATES WOULD INCREASE AGENCY FUNDING TO $460 MILLION AND HOLD STAFFING TO THE FISCAL YEAR 1986 LEVEL. OVERALL FUNDS FOR EACH OF OUR MAJOR PROGRAMS WOULD INCREASE MODERATELY TO MEET EXPANDING PROGRAMMATIC REQUIREMENTS DURING THAT YEAR. AS OUR DETAILED BUDGET REQUEST INDICATES, THIS AMOUNT IS NOT SUPPORTED BY OMB. WE WILL NEED TO RESOLVE THIS MATTER IN THE NEAR FUTURE.

CONCLUDING REMARKS

THE DETAILS OF OUR BUDGET REQUEST ARE CONTAINED IN OUR BUDGET SUBMISSION, WHICH HAS ALREADY BEEN PROVIDED TO THE SUBCOMMITTEE. THE ANSWERS TO THE QUESTIONS ENCLOSED IN YOUR LETTER OF INVITATION ARE ATTACHED.

IN CLOSING, LET US REEMPHASIZE THAT THE BUDGET REQUEST SUBMITTED TO CONGRESS REPRESENTS A MINIMUM PROGRAM IN THE VIEW OF THE COMMISSION. WE URGE YOUR STRONG SUPPORT FOR THE FULL AMOUNT OF OUR REQUEST.

APPENDIX B

BUDGET RESOURCE SUMMARY[1/]

PROGRAMS	FY1985 EST.		FY1986		FY1987	
	FTE	$	FTE	$	FTE	$
NUCLEAR REACTOR REGULATION	718	91.2	718	88.9	706	95.5
INSPECTION AND ENFORCEMENT	1096	93.3	1142	92.9	1158	101.3
NUCLEAR MAT'L SAFETY & SFGDS	350	40.3	370	40.7	370	44.9
NUCLEAR REGULATORY RESEARCH	230	150.1	208	136.0	208	145.8
PROGRAM TECHNICAL SUPPORT	365	31.3	352	29.3	348	30.0
PROGRAM DIRECTION & ADMIN	732	43.4	701	41.2	701	42.5
	3491	449.6	3491	429.0	3491	460.0

[1/] DOLLARS ARE EXPRESSED IN MILLIONS.

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

CHAIRMAN

January 23, 1985

The Honorable Tom Bevill, Chairman
Subcommittee on Energy and Water
  Development
Committee on Appropriations
United States House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This letter is in response to your request that I reexamine my authorities under Reorganization Plan No. 1 of 1980 and provide you potential improvements to the NRC organization structure. I have been Chairman of the Nuclear Regulatory Commission for some three and one-half years -- longer than any previous Chairman. Based on my experiences as Chairman, this letter also includes my assessment of the problems under the Reorganization Plan and my recommendations for solving them.

I. Study Group Report to Me

To assist me, I appointed a study group with William J. Dircks, NRC Executive Director for Operations (EDO) as its Chairman. The complete membership of the study group is presented in Attachment A. The report of the study group is enclosed as Attachment B.

The study group addressed three broad questions: (1) Does Reorganization Plan No. 1 of 1980 as presently written permit the NRC Chairman to effectively exercise authority as head-of-the-agency? (2) What additional authority is provided to the NRC Chairman under the reorganization plan which has not been used and which could improve the effective exercise of head-of-the-agency authority? and (3) Are there modifications to the reorganization plan which would result in a more efficient and effective exercise of this authority by the NRC Chairman?

With regard to the first two questions, the study group drew the following conclusions:

> "...the Reorganization Plan as presently written does not permit the Chairman to exercise authority much differently than was the case before the Plan was adopted."
>
> "...given the history of the Commission to date and

> the legal constraints imposed on the Chairman by the Reorganization Plan, the Chairman is exercising the authority that has been provided and there is little more practical authority which could be productively used."

With regard to the third question, the study group examined improvements in NRC management of the type recommended by the Grace and Kemeny Commissions.

Concerning the Grace Commission's recommendations, the study group stated, among other things:

> "To strengthen the Reorganization Plan legislatively as recommended by the Grace Commission probably would require the removal of the provision allowing Commissioners to bring any matter before the collegial body on a majority vote. Whether any change in the way the Commission functions would result as a consequence is debatable."

Concerning the recommendations of the Kemeny Commission, the study group stated:

> "...it is clear that the Chairman is still hampered by the same constraints that the Kemeny Commission thought should be rectified....Consequently, to the extent that the purpose of the Chairman's reexamination was to determine which, if any, of these particular recommendations could be more fully implemented, it is apparent that there is little more that can be done within the context of the existing Reorganization Plan."

II. My Statement of Problems with the Present Commission Structure

I believe that most of the problems with the present structure stem from the provisions of the Reorganization Plan No. 1 of 1980, the Sunshine Act, and ex parte considerations.

A. The Reorganization Plan

The Reorganization Plan No. 1 of 1980 gives the Commission, as a collegial body, three basic functions: (1) policy formulation; (2) rulemaking; and (3) orders and adjudications. The Plan also defines Commission appointment and removal functions. Although the Plan transfers all other functions of the Commission to the Chairman, the fact that the Plan states that the Commission can vote on "whether any matter, action, question or area of inquiry" pertains to one of its three basic functions effectively nullifies much of the Chairman's authority.

I will now discuss some of the problems under the Plan, both as seen by the study group and as experienced by me since becoming Chairman in 1981.

1. Problems Resulting From Policy Formulation And Independence Practiced By Individual Commissioners

As indicated in the attached Report, the Study Group suggests that individual Commissioners now define their policy formulation role broadly -- in part, because adjudications (under present arrangements) and rulemaking do not occupy them fully. In this regard, the Study Group Report states:

> "Several of those interviewed suggested that the question of what is policy had been broadly defined by commissioners since they generally had a distaste for performance of their adjudicatory function.... It was noted that rulemaking activities for commissioners do not require a substantial portion of time. Therefore if rulemaking and adjudication do not keep commissioners fully occupied, the only remaining activity (of the primary functions) is in the policy arena. ...Beyond the three primary functions there is a rich menu of operational activities to which individual Commissioners have been attracted and in which they intervene at will, further impairing the Chairman's, as well as the EDO's locus of authority, responsibility and accountability."

Given a Commission structure, I do not view the interest of Commissioners in broad policy questions as all bad. However, it must be done in a collegially disciplined manner.

Since, under the present structure, a majority vote by the Commission can force any matter to be brought before the Commission as a policy matter, the Chairman must be sensitive to the views of individual Commissioners that might lead to overruling of the Chairman's action or delaying action on a proposal from the Chairman. For example:

-- Commissioners have differing opinions on how program planning should be done and the regulatory philosophy on which such planning should be based. While debate on program planning has some merit, closure sometimes can be difficult and can lead to delays and to confused signals to the staff.

-- Some Commissioners do not feel they can vote for a budget proposal developed by the Chairman and EDO unless they or members of their personal staffs sit in on the background deliberations between the Chairman and the EDO and his staff.

-- As a result of Commissioner comments and interactions, complications and delays arise in making decisions and preparing directives to the staff which result from Commission actions. Differences usually have to be resolved by time-consuming individual contacts to avoid problems presented by the Sunshine Act as discussed below.

-- Likewise, responses to letters from the Congress and others outside the agency must wait for and include, above the Chairman's signature, the additional remarks or dissenting views of any Commissioner who wishes to include such remarks or a rebuttal. Sometimes the remarks are longer than the basic letter.

Other problems that arise under the present structure result from the independence practiced by individual Commissioners with regard to their own activities. Among these are included the following:

-- Scheduling of official travel or personal leave, sometimes without due consideration of the Commission's agenda.

-- Perceived freedom to task the operating staff with duties without going through the Chairman or the EDO. If the Chairman questions the priority or resources to be devoted to the task, individual Commissioners have raised the matter as a policy issue or as an issue of not being kept fully informed.

-- Individual Commissioners sometimes decide to write their own letters to persons outside the agency, without regard for the collegial process. These letters can cause confusion, and Commission letters signed by the Chairman then must be prepared and approved collegially to correct the confusion.

-- Individual Commissioners also present their own prepared testimony in Congressional hearings, usually without circulating it to the Chairman or others beforehand. In contrast, the Chairman's testimony is prepared in advance and represents the collegial view, sometimes resulting in a watered-down version of what the Chairman might otherwise say.

2. End Result

The end result of Commissioners' ability to declare any issue a matter of policy and to act with complete independence is to diminish the Chairman's authority. The Chairman retains the responsibility for actions of the agency, and must answer to Congress and the public when questions are asked. As a rule it is the Chairman, not the individual Commissioners, who is held accountable for agency actions. Yet the Chairman does not have the ability to exercise the controls normally found in the hands of the Chief Executive of a body.

The net effect is a paradox: Commissioners are most interested in day-to-day management of the agency, the thing that single administrators traditionally do best; and Commissioners appear least inclined toward adjudicatory functions, the role that Commissions traditionally are created to perform.

B. The Sunshine Act

Many of the problems in reaching timely closure on some of the foregoing actions (e.g., correspondence, Staff Requirements Memoranda and budget decisions) come from the fact that, under the Sunshine Act, the Commission cannot meet as a body to resolve differences except in public sessions. However, since resolution of differences is a give-and-take process, holding such sessions in public has a chilling effect, particularly when budgetary strategy is involved. When the background for the discussion is not well understood by the public, such sessions can lead to possible erroneous public perceptions.

C. Ex Parte Considerations

During a hearing before your Subcommittee in 1984, all the NRC Commissioners expressed dissatisfaction with current ex parte limitations. Extensive review and discussion of various options have occurred since that time.

I am dissatisfied with our present ex parte rule which is more restrictive than the law requires. The staff is a technical resource which should be available to Commissioners, within given legal constraints. Therefore, I support relaxation of our present ex parte rule under an option which provides for a "separated staff". Under this option, those persons designated beforehand in the rule as investigators and litigators would be barred from contacts (other than on the record) with the Commission, while others would be permitted to advise the Commission freely, even on matters at issue in contested cases.

The majority of the Commission did not support this approach, although they did agree that we should amend our ex parte rule to conform with the Administrative Procedure Act. What this will mean is yet to be determined.

III. Improvements Under The Present Structure

Although the study group concluded that the Chairman is currently exercising all the authority that has been provided, continuing efforts have been taken or currently are still underway to improve the effectiveness of the agency. For example:

- Overall objectives for the Commission were issued when I became Chairman in 1981. These objectives formed the basis for the policy and planning guidance documents issued for 1982 and later years. The policy and planning guidance document for 1984 is included as Attachment C.
- My proposals have been submitted to the Commission outlining the regulatory philosophy on which program planning is to be based along with the proposed policy and planning guidance document for 1985.
- Steps have been taken to revise Commission procedures for handling correspondence and other action documents with less delay. Also, I will raise again the question of better coordination of Commissioner travel.
- Efforts to get GSA to consolidate NRC in one geographic location are being and will continue to be pursued vigorously. Efficiencies in NRC operations are greatly impeded by the fact that the NRC headquarters staff is spread out in eleven different buildings throughout the Washington, D.C. metropolitan area. Both the Kemeny Commission and the Grace Commission strongly urged geographic consolidation of NRC's Washington-based activities. Nevertheless, despite continuing efforts to consolidate the agency's headquarters, offices remain widely separated.
- While I am aware of the Subcommittee's desire to see reduction in the number of persons reporting directly to the Commission, I do not believe that much can be done in this regard because of the ex parte problem which leads to the need for staff on whom the Commission can draw for advice. One exception might be the Office of

Investigation (OI); the Commission now is reconsidering its past decisions that OI should report directly to it.

- Another action that may deserve attention after geographic consolidation of the agency is achieved is combining of our legal offices. This would increase the number of people reporting directly to the Commission if the pattern used in other agencies is followed. I believe it also would diminish the EDO's and Chairman's control over the agency's legal apparatus.
- From time to time, consideration has been given to broader use of the lead Commissioner concept (i.e., assigning each Commissioner a specific area of our program to follow). However, I believe that, if widely used, this concept would fragment rather than centralize the major functions of the NRC as pointed out in the Study Group Report.

IV. My Recommendations for Legislative Changes

This section is divided into two parts. The first part is based on the premise that only a major structural organization change at the top can solve the problems. The second part is based on the premise that major structural change of the NRC may not be accomplished by the Congress and therefore less sweeping adjustments will be all that can be expected.

A. Major Structural Changes

I have addressed four possible approaches that the Subcommittee may wish to consider. They are listed in my order of preference, with most preferred coming first.

1. Single Administrator

Many of the problems identified in Part II of this letter, and several addressed in Part III as well, would be resolved if the law were changed to establish a single administrator form of regulatory management. The study group reported, however, that all of the individuals interviewed "agreed that since the single administrator approach was not legislatively adopted by Congress following the strong recommendations to do so from the Kemeny Commission following TMI, there was no reason to believe Congress would be more inclined to adopt such an organization now even if it could be argued that there were additional compelling circumstances (such as the failure of the Reorganization Plan to achieve the intended result) which might support a change."

However, I believe so strongly that the single administrator form of management should be established for the NRC, that I urge development and adoption of legislation along this line. The single administrator could report either to the Congress or to the President. While I have a slight preference for having the Administrator report to the Executive Branch, either reporting channel would have merit. In either case, the single administrator should be appointed by the President with the advice and consent of the Senate.

The single administrator would likely profit from the advice of a general advisory commission; thus I would recommend such a body as part of my proposal. It could be modeled after the NRC's present Advisory Committee on Reactor Safeguards, but I believe its membership and areas of expertise should be expanded to cover more aspects of NRC operations. Between 15 and 20 part-time members with both technical and administrative expertise would be desirable.

If you want me to submit possible legislation on this approach, I can do so.

2. Single Administrator With A Commission to Handle Adjudications Only

The one activity that is best suited to a commission or panel is the matter of adjudication and issuing related orders. Thus I could envision a Commission constituted in a fashion similar to our present Appeal Board Panel which would do the work of that panel and in effect replace it. As with the present structure of having the Commission be the level of final appeal, I would have the single administrator serve as the level of final appeal. Thus the single administrator would not participate in the Adjudication Commission, but would function in an adjudicatory role on appeal from one of the parties.

I would suggest that the Adjudication Commission consist of five members; both the single administrator and the Adjudication Commission would be appointed by the President with the advice and consent of the Senate.

3. Make Adjudication and Rulemaking the Province of the Commission

Under this option an approach similar to that recommended by the Grace Commission would result. Specifically, Reorganization Plan No. 1 would be modified such that it would leave adjudication and rulemaking as the major functions of the Commission when acting as a collegial body. Individual Commissioners, other than the Chairman, would not be in a policy-making role apart from their adjudicatory and rulemaking functions.

4. . Three-person Commission

Last year, before a former Commissioner left the NRC, he suggested that consideration be given to a three-person Commission. While this approach would reduce the extent of interaction needed among Commissioners, it would not resolve many of the basic problems set forth previously.

This approach would, however, present a new problem: that is the question of how to satisfy the Sunshine Act. If the quorum in a 3-person Commission is two, then Commissioners could not consult each other on a one-on-one basis; this would lead to insurmountable problems. If the quorum is three, then Commission decision meetings could not be held when any Commissioner were sick, on leave or on travel status. In fact, a single Commissioner could then prevent votes or meetings simply by not participating. I do not recommend this approach unless legislation permits private discussions between 2 of the 3 Commissioners in spite of Sunshine Act requirements.

B. Other Adjustments

Under the premise that the major structural changes identified above may not be politically acceptable, several other organization or administrative suggestions for legislation are presented that might at least provide some improvements, although not marked ones.

1. Give Chairman Greater Appointment and Removal Authority

Under this option the Reorganization Plan would be changed to make the Chairman the sole appointing and removing authority for all senior NRC positions, regardless of whether they report to the full Commission or to the Chairman or the EDO.

2. Provisions to Permit Closed Commission Meetings for Special Purposes

If organization approaches are not adopted to solve some of the problems brought about by the Sunshine Act prohibitions on closed Commission meetings, I would propose that the Congress consider more limited legislative changes that would at least allow the present Commission to function more efficiently. Such legislation would permit closed meetings of the collegial Commission to discuss such items as correspondence, management, budget, policy and planning and programming, etc. These meetings would be similar to the Executive Sessions that most multi-headed bodies are permitted to have to discuss items in a closed give-and-take environment.

3. Provisions to Solve Ex Parte Problems

Since the Commission appears unable to develop on its own a workable method to ease the ex parte problems, the Congress may wish to legislate provisions that would permit the NRC to make better use of its technical talent in directly advising the Commissioners on specific cases. More specifically, the Congress may wish to legislate a trial program for a "separated staff."

4. Legislative Support For Consolidation

Since consolidation is essential to efficient and effective functioning of the NRC, I strongly recommend that the Subcommittee mandate consolidation not later than FY 1986 in a single location in the District of Columbia or in Bethesda, Maryland. The mandate should include whatever funding provisions are necessary to achieve full consolidation of the NRC by that time.

V. The Light Under the Bushel

Concentrating on problems associated with the Commission form of management vis-a-vis other forms of management for the NRC must not divert attention from the fact that we are dealing with only part of the NRC organization, albeit an important part. Nevertheless, it must be recognized that the bulk of the work in all aspects of NRC's mission is done by the staff.

The staff deals with many complex issues, including day-to-day surveillance of reactor and materials licenses; evaluating new license applications or proposals from existing licensees; handling export licenses; developing rules, regulations, and guidelines for all its activities; and carrying out much needed research. All this work requires time for staff deliberation, development of approaches, resolution of differing opinions, and preparation of proposals either for implementation or for Commission action.

We are indeed fortunate to have a highly talented and dedicated staff, and we must work to keep it that way. Thus, criticism of the Commission management structure should not be interpreted as criticism of the overall quality of the staff's work.

It should also be noted that, despite the problems identified in this report, the Commission as well as the staff is doing a good job in many areas and is pursuing programs that will lead to improvements in safety, in regulation, and in the overall operation of the NRC.

This is the light under the bushel.

Just as concentrating on the number of times Babe Ruth struck out or on the number of players he left on base can mislead one into believing that he was a poor baseball player, so can one be misled into believing that NRC is not doing a good job if one looks only at its problems. When one looks instead at Babe Ruth's home run record and the number of runs he batted in, one draws a different conclusion about his value as a baseball player. I believe this also is the case with the NRC.

Close

In closing, Mr. Chairman, I want to assure you that I would be pleased to discuss any of my ideas set forth above, or any other thoughts that you may have.

There is one final point that would be relevant to our discussions but which I have not dealt with in the body of this letter. That point concerns the interactions between NRC and the Congress.

Congressional oversight is extensive and varied, with five key subcommittees currently monitoring our activities closely, and with several others looking over our shoulders. Different signals from these different subcommittees contribute, in my view, to some of the management problems at NRC. I would appreciate whatever attention Congress can give to this issue.

For the record, a near-final draft of this letter was shown to the other Commissioners before I sent it to you. Nevertheless, this letter constitutes my own thinking and it does not necessarily represent the views of any other Commissioner. In fact some may disagree with it quite strongly.

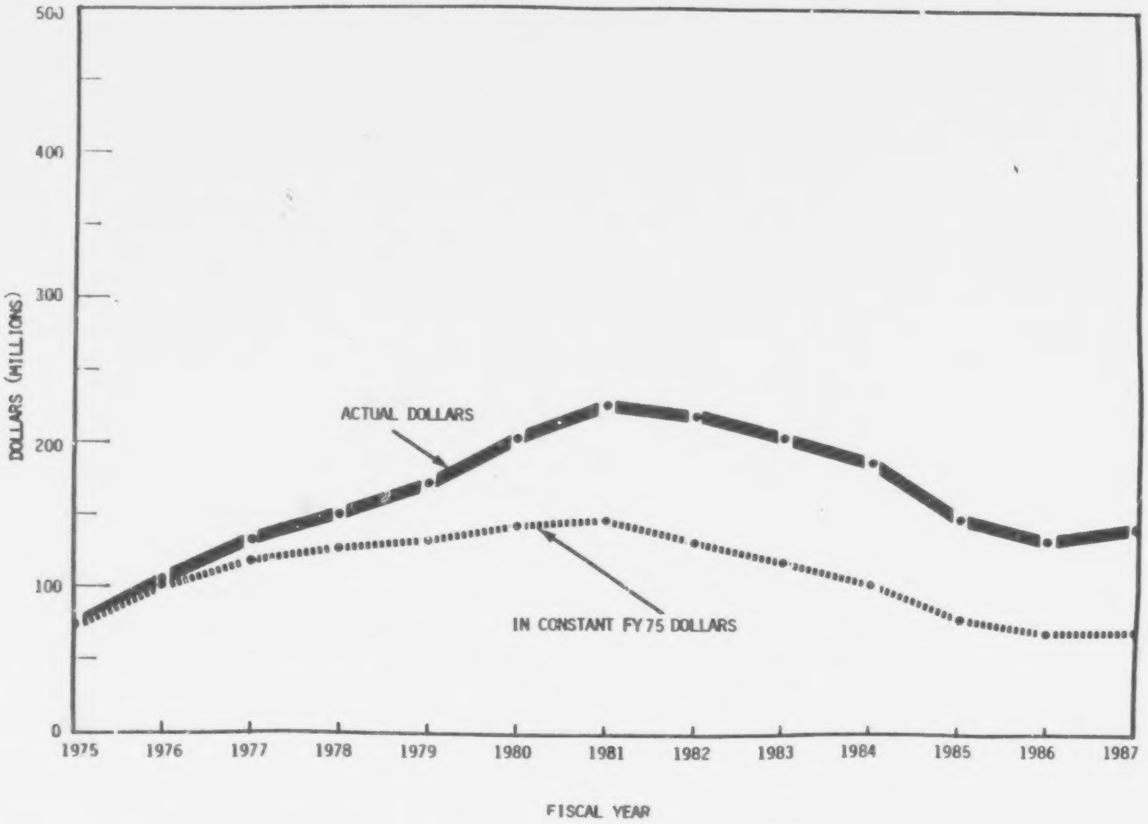
Sincerely,

Nunzio J. Palladino

Attachments:
A. Membership List
B. Study Group Report
C. 1984 Policy and Planning
 Guidance

cc: Rep. John T. Myers

TOTAL RESEARCH OBLIGATIONS



Attachment A

Membership of Study Group

Chairman:	William J. Dircks Executive Director for Operations U.S. Nuclear Regulatory Commission
Members:	John C. Hoyle Assistant Secretary U.S. Nuclear Regulatory Commission
	William J. Olmstead Director and Chief Counsel Regulations Division Office of the Executive Legal Director U.S. Nuclear Regulatory Commission
Consultant to Mr. Dircks:	John Gray International Energy Associates, Ltd. Washington, D. C.

ATTACHMENT B

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

January 11, 1985

MEMORANDUM FOR: Chairman Palladino ✓

FROM: William J. Dircks
Executive Director for Operations

SUBJECT: REPORT ON REEXAMINATION OF CHAIRMAN'S AUTHORITY

In a memorandum to me dated June 28, 1984, you asked me to chair a study group to help with your reexamination of authority under Reorganization Plan No. 1 of 1980. One of the assignments you gave the group was to interact with past chairmen and sitting commissioners to obtain their views on the matters you were to consider. The study group has completed the work you requested and has prepared a report which contains the results of the group's work. While the report does not contain your views nor reflect any conclusions you may wish to make, it does examine the areas you were directed to review by the House Committee on Appropriations in its report accompanying the FY 1985 Energy and Water Development Appropriations Bill.

William J. Dircks
Executive Director for Operations

Enclosure: Study Group Report

cc: J. Gray
W. Olmstead
J. Hoyle

REPORT ON REEXAMINATION OF THE CHAIRMAN'S AUTHORITY UNDER REORGANIZATION PLAN NO. 1 OF 1980 PURSUANT TO REQUEST OF HOUSE COMMITTEE ON APPROPRIATIONS

THE COMMITTEE ON APPROPRIATIONS OF THE UNITED STATES HOUSE OF REPRESENTATIVES URGED THE CHAIRMAN OF THE NUCLEAR REGULATORY COMMISSION TO REEXAMINE HIS AUTHORITIES PURSUANT TO REORGANIZATION PLAN NO. 1 OF 1980 AND TO REPORT TO THE COMMITTEE POTENTIAL IMPROVEMENTS TO THE NRC ORGANIZATION STRUCTURE. [H.R. REP. NO. 98-755, 98TH CONG., 2D SESS. 146 (1984).] THE COMMITTEE'S REPORT STATED THAT "THE COMMITTEE IS NOT CONVINCED THAT ALL THAT CAN BE DONE HAS BEEN DONE, TO STRENGTHEN THE ROLE OF THE CHAIRMAN AS RECOMMENDED BY THE KEMENY AND GRACE COMMISSIONS." THE REPORT NOTED THAT NRC COMMISSIONERS HAD GENERALLY AGREED DURING TESTIMONY BEFORE THE COMMITTEE THAT THE MANAGEMENT STRUCTURE OF THE NRC SHOULD BE REVISED. IMPROVEMENTS IN NRC MANAGEMENT ARE NEEDED, ACCORDING TO THE COMMITTEE, TO AVOID IMPAIRING THE REGULATORY PROCESS FOR NUCLEAR POWER.

TO COMPLY WITH THE COMMITTEE'S REQUEST, THE CHAIRMAN CONVENED A STUDY GROUP TO ASSIST HIM IN REEXAMINING THE CHAIRMAN'S AUTHORITIES UNDER THE REORGANIZATION PLAN. THE CHAIRMAN REQUESTED THE GROUP TO HELP HIM PREPARE A REPORT WHICH WOULD FOCUS ON ORGANIZATIONAL IMPROVEMENTS WHICH WOULD "... BETTER CARRY OUT THE INTENT OF THE REORGANIZATION PLAN AS IT

PERTAINS TO [THE CHAIRMAN'S] AUTHORITIES." THE GROUP WAS INSTRUCTED TO INTERVIEW FORMER CHAIRMEN OF THE NRC AND ALL CURRENT SITTING COMMISSIONERS. TO STRUCTURE THE STUDY THE GROUP WAS ASKED TO ADDRESS THREE BROAD QUESTIONS: 1) DOES REORGANIZATION PLAN NO. 1 OF 1980 AS PRESENTLY WRITTEN PERMIT THE CHAIRMAN TO EFFECTIVELY EXERCISE AUTHORITY AS HEAD-OF-THE-AGENCY? 2) WHAT ADDITIONAL AUTHORITY IS PROVIDED TO THE CHAIRMAN UNDER THE REORGANIZATION PLAN WHICH HAS NOT BEEN USED AND WHICH COULD IMPROVE THE EFFECTIVE EXERCISE OF HEAD-OF-THE-AGENCY AUTHORITY? AND 3) ARE THERE MODIFICATIONS TO THE REORGANIZATION PLAN WHICH WOULD RESULT IN A MORE EFFICIENT AND EFFECTIVE EXERCISE OF THIS AUTHORITY BY THE CHAIRMAN?

INTERVIEWS WERE CONDUCTED WITH MARCUS ROWDEN, JOSEPH HENDRIE, AND JOHN AHEARNE ALL OF WHOM HAD PREVIOUSLY SERVED AS CHAIRMAN OF THE NUCLEAR REGULATORY COMMISSION. COMMISSIONERS INTERVIEWED WERE THOMAS M. ROBERTS, JAMES K. ASSELSTINE, FREDERICK M. BERNTHAL, AND LANDO ZECH. 1/ EACH INTERVIEW FOLLOWED THE SAME FORMAT AND GENERALLY LASTED FOR AT LEAST ONE HOUR. THE THREE BROAD QUESTIONS WERE DISCUSSED WITH THE FORMER CHAIRMEN AND SITTING COMMISSIONERS WITH REFERENCE TO TWO PARTICULAR ROLES OF THE CHAIRMAN UNDER THE REORGANIZATION PLAN: HIS ROLE OVER FUNCTIONS VESTED IN THE COMMISSION AS A BODY AND HIS ROLE AS THE PRINCIPAL EXECUTIVE OFFICER OF THE COMMISSION.

CONCERNING THE QUESTION WHETHER THE CHAIRMAN CAN EFFECTIVELY EXERCISE AUTHORITY UNDER THE REORGANIZATION PLAN AS CURRENTLY WRITTEN, MOST OF THOSE INTERVIEWED BELIEVED HE COULD NOT. IT WAS REPEATEDLY EMPHASIZED THAT THE KEMENY COMMISSION REPORT HAD STRONGLY RECOMMENDED A SINGLE ADMINISTRATOR FORM OF AGENCY ADMINISTRATION. MOST OF THOSE INTERVIEWED BELIEVE THE SINGLE ADMINISTRATOR APPROACH WOULD BE THE MOST EFFECTIVE WAY TO ADDRESS THE MANAGEMENT CONCERNS THAT HAVE BEEN EXPRESSED CONCERNING REGULATION OF NUCLEAR SAFETY. THIS IDEA HAD NOT

1/ SEVERAL ATTEMPTS TO MEET WITH FORMER CHAIRMAN WILLIAM ANDERS WERE MADE BUT DUE TO MUTUAL SCHEDULING DIFFICULTIES IT WAS NOT POSSIBLE TO ARRANGE A TIME FOR A FORMAL INTERVIEW. IN TELEPHONE CONVERSATIONS WITH THE EXECUTIVE DIRECTOR FOR OPERATIONS, THE FORMER CHAIRMAN INDICATED THAT HE DID NOT THINK HIS VIEWS WOULD BE AS HELPFUL AS THOSE OF MORE RECENT CHAIRMEN SINCE MANY OF THE IDENTIFIED PROBLEMS AROSE AFTER HIS TENURE ON THE COMMISSION. DUE TO LIMITATIONS OF TIME, NO INTERVIEWS WERE ATTEMPTED WITH FORMER COMMISSIONERS WHO HAD NOT ALSO SERVED AS CHAIRMAN. SINCE THE COMMITTEE'S QUESTIONS WERE SPECIFICALLY ADDRESSED TO NRC PRACTICE UNDER ITS REORGANIZATION PLAN, COMMISSIONERS AT OTHER AGENCIES WERE NOT CONTACTED. HOWEVER, THE ORGANIZATIONAL PLANS UNDER WHICH OTHER COMMISSIONS OPERATE WERE REFERRED TO WHERE APPROPRIATE.

FOUND SUPPORT IN THE CONGRESS AND CONSEQUENTLY PRESIDENT CARTER IMPLEMENTED REORGANIZATION PLAN NO. 1 OF 1980.

THE PRESIDENT'S PRIVATE SECTOR SURVEY ON COST CONTROL (GRACE COMMISSION) RECENTLY RECOMMENDED THAT MANAGEMENT CONTROL AT THE NRC SHOULD BE STRENGTHENED BY PROVIDING STRONGER MANAGERIAL AUTHORITY FOR THE CHAIRMAN. SPECIFIC RECOMMENDATIONS INCLUDED THE SUGGESTION THAT THE CHAIRMAN BE GIVEN THE SAME APPOINTMENT AND REMOVAL AUTHORITY OVER SENIOR STAFF AS THAT POSSESSED BY THE CHAIRMAN OF THE FEDERAL ENERGY REGULATORY COMMISSION IN THE DEPARTMENT OF ENERGY. THE GRACE COMMISSION RECOMMENDS LEGISLATION TO ACCOMPLISH THAT OBJECTIVE.

A REVIEW OF 42 USC 7171 WHICH PROVIDES FOR THE AUTHORITY OF THE FERC CHAIRMAN AND A COMPARISON WITH REORGANIZATION PLAN NO. 1 OF 1980 REVEALS LITTLE DIFFERENCE OF SIGNIFICANCE BETWEEN THE IDENTIFIED AUTHORITY OF THE CHAIRMEN OF THE RESPECTIVE AGENCIES. HOWEVER, THE REORGANIZATION PLAN AS ORIGINALLY SUBMITTED BY THE PRESIDENT WAS MODIFIED AFTER STRONG OBJECTIONS WERE TENDERED BY SITTING COMMISSIONERS. THE MODIFICATION PROVIDED THAT A MAJORITY VOTE BY THE COMMISSION COULD FORCE ANY MATTER TO BE BROUGHT BEFORE THE COMMISSION. THOSE INTERVIEWED REPEATEDLY COMMENTED THAT THE THREAT OF SUCH A VOTE EFFECTIVELY PREVENTED THE CHAIRMAN FROM EXERCISING HIS AUTHORITY WHENEVER IT WAS APPARENT THAT EVEN A SINGLE COMMISSIONER HAD STRONG VIEWS TO

THE CONTRARY. MOST FELT THIS THREAT WAS EFFECTIVE SINCE OTHER COMMISSIONERS WOULD ACT TO PROTECT THE COMMISSION'S COLLEGIAL AUTHORITY EVEN IF THEY HAPPENED TO DISAGREE WITH A PARTICULAR COMMISSIONER ON A PARTICULAR ISSUE. ONE FORMER CHAIRMAN COMMENTED THAT THE REORGANIZATION PLAN MIGHT HAVE ALLOWED A STRONG CHAIRMAN ADMINISTRATOR TO FUNCTION EFFECTIVELY HAD IT BEEN IN PLACE AT THE TIME THE COMMISSION WAS ORIGINALLY FORMED. HOWEVER, HE BELIEVED THAT SINCE THE COMMISSION HAD GROWN ACCUSTOMED TO EXERCISING AUTHORITY COLLEGIALLY, THE REORGANIZATION PLAN HAD LITTLE PRACTICAL EFFECT ON HOW COMMISSION BUSINESS WAS CONDUCTED. ONE SITTING COMMISSIONER BELIEVED THE CHAIRMAN PROBABLY HAD PREROGATIVES WHICH WERE NOT EXERCISED BUT THAT IT WAS UNLIKELY THAT SUCH PREROGATIVES WOULD BE EXERCISED UNLESS THE CHAIRMAN HAD A STRONG DISPOSITION AND PERSONALITY. ONE OF THE FORMER CHAIRMEN COMMENTED THAT A "MR. ADROIT" MIGHT BE ABLE TO FUNCTION EFFECTIVELY BUT THAT SUCH PEOPLE COME ALONG BY ACCIDENT AND ARE NOT LIKELY TO ROUTINELY APPEAR IN THE SYSTEM AS DESIGNED.

A NUMBER OF THOSE INTERVIEWED SUGGESTED THAT THE EFFECTIVE EXERCISE OF AUTHORITY BY THE CHAIRMAN WAS FRUSTRATED MOST OFTEN BECAUSE THE COMMISSION FORM OF ADMINISTRATION EFFECTIVELY SEPARATED ACCOUNTABILITY AND RESPONSIBILITY. IT WAS NOTED THAT A DISSENTING VIEW NEVER WAS CALLED TO ACCOUNT SINCE IT HAD NO IMMEDIATE OPERATIONAL EFFECT. ON THE OTHER HAND, VOTING WITH

THE MAJORITY WAS SUFFICIENTLY ANONOMOUS SO THAT A COMMISSIONER NEED NOT FEEL SINGULARLY RESPONSIBLE FOR THE DECISION. THIS VIEW SEES INDIVIDUAL COMMISSIONERS AS LACKING INDIVIDUAL ACCOUNTABILITY SINCE THE AGENCY FUNCTIONS COLLEGIALLY. IT WAS EMPHASIZED THAT A PERSON WHO IS BOTH RESPONSIBLE AND ACCOUNTABLE FUNCTIONS QUITE DIFFERENTLY FROM ONE WHO IS NOT ACCOUNTABLE.

REORGANIZATION PLAN NO. 1 OF 1980 ASSIGNS THREE PRIMARY FUNCTIONS TO THE COMMISSION: 1) POLICY FORMULATION; 2) RULEMAKING WHICH PERTAINS TO POLICY FORMULATION ORDERS OR ADJUDICATIONS; AND 3) ORDERS AND ADJUDICATIONS. SEVERAL OF THOSE INTERVIEWED SUGGESTED THAT THE QUESTION OF WHAT IS POLICY HAD BEEN BROADLY DEFINED BY COMMISSIONERS SINCE THEY GENERALLY HAD A DISTASTE FOR PERFORMANCE OF THEIR ADJUDICATORY FUNCTION. IT WAS OBSERVED THAT THE PRACTICAL REASON FOR RETAINING THE ATOMIC SAFETY AND LICENSING APPEAL BOARD WAS SO THAT THE COMMISSION WOULD NOT HAVE TO REVIEW VOLUMINOUS ADJUDICATORY RECORDS AND RENDER DECISIONS IN EACH CASE. IN FACT, NO CURRENT MEMBER OF THE COMMISSION READS THE COMPLETE RECORD COMPILED IN LICENSING PROCEEDINGS. SEVERAL OF THOSE INTERVIEWED QUESTIONED WHETHER IT WOULD BE POSSIBLE FOR THE PRESIDENT TO RECRUIT QUALIFIED TECHNICAL PEOPLE TO SERVE ON THE COMMISSION IF THEY UNDERSTOOD THEIR PRIMARY RESPONSIBILITY WAS TO BE THE REVIEW OF ADJUDICATORY RECORDS. IT WAS NOTED THAT RULEMAKING ACTIVITIES FOR COMMISSIONERS DO NOT REQUIRE A SUBSTANTIAL PORTION OF TIME.

THEREFORE IF RULEMAKING AND ADJUDICATION DO NOT KEEP COMMISSIONERS FULLY OCCUPIED, THE ONLY REMAINING ACTIVITY (OF THE PRIMARY FUNCTIONS) IS IN THE POLICY ARENA. CONSEQUENTLY, A NUMBER OF PEOPLE BELIEVED IT WAS INEVITABLE THAT COMMISSIONERS WOULD TAKE A VERY BROAD VIEW OF WHAT MATTERS CONSTITUTED AGENCY POLICY AND WERE THEREFORE MATTERS FOR COMMISSION ATTENTION RATHER THAN MATTERS APPROPRIATE SOLELY FOR THE CHAIRMAN. BEYOND THE THREE PRIMARY FUNCTIONS THERE IS A RICH MENU OF OPERATIONAL ACTIVITIES TO WHICH INDIVIDUAL COMMISSIONERS HAVE BEEN ATTRACTED AND IN WHICH THEY INTERVENE AT WILL, FURTHER IMPAIRING THE CHAIRMAN'S, AS WELL AS THE EDO'S LOCUS OF AUTHORITY, RESPONSIBILITY AND ACCOUNTIBILITY.

THOSE INTERVIEWED HAD FEW SUGGESTIONS CONCERNING WHAT ADDITIONAL AUTHORITY EXISTS UNDER THE REORGANIZATION PLAN WHICH HAS NOT BEEN USED OR WHICH COULD IMPROVE THE EFFECTIVE USE OF HEAD-OF-THE-AGENCY AUTHORITY BY THE CHAIRMAN. SOME SUGGESTED THAT THE CHAIRMAN DID NOT NEED TO SEEK COMMISSION CONCURRENCE IN AGENCY CORRESPONDENCE. HOWEVER, ONE FORMER CHAIRMAN NOTED THAT THE COMMISSION HAD VOTED TO INCLUDE INDIVIDUAL COMMISSION VIEWS IN OUTGOING CORRESPONDENCE PREPARED FOR THE CHAIRMAN'S SIGNATURE. WHILE THE CHAIRMAN CLEARLY HAS AUTHORITY UNDER THE REORGANIZATION PLAN TO ACT AS THE AGENCY SPOKESMAN, REFUSING TO INCLUDE INDIVIDUAL COMMISSIONER VIEWS WOULD PROBABLY NOT EFFECTIVELY IMPROVE THE EXERCISE OF HIS AUTHORITY. IT WAS

ASSISTANCE NEEDED TO EFFECTIVELY DISCHARGE THE COMMISSIONER'S RESPONSIBILITIES.

AMONG THE COMMISSIONERS INTERVIEWED THERE WERE DIFFERENT REASONS EXPRESSED BUT ALL AGREED THAT PRACTICALLY THERE WAS LITTLE TO BE GAINED BY THE CHAIRMAN'S ATTEMPTING TO EXERCISE GREATER AUTHORITY OVER STAFF RESOURCES. ONE COMMISSIONER INDICATED THAT THE EX PARTE AND SEPARATION OF FUNCTIONS LAWS MADE THIS OPTION A HOBSON'S CHOICE FOR THE CHAIRMAN. IF HE DID ATTEMPT TO BE BETTER INFORMED ABOUT STAFF ACTIVITIES SO THAT HE COULD EFFECTIVELY CONTROL STAFF RESOURCES, THEN HE WOULD HAVE GREATER RISK OF HAVING TO EXCLUDE HIMSELF FROM COMMISSION DELIBERATIONS. THIS WOULD, OF COURSE, DEFEAT THE PURPOSE OF SEEKING GREATER CONTROL IN THE FIRST PLACE SINCE THE COMMISSION WOULD BE DEPRIVED OF THE INFORMATION THAT THE CHAIRMAN HAD DEVELOPED AND THE RISK OF TIE VOTES WOULD BE EVER PRESENT.

AN APPROACH DISCUSSED WITH THOSE INTERVIEWED WAS THE "LEAD" COMMISSIONER CONCEPT. ALTHOUGH NEVER FORMALLY USED BY THE NUCLEAR REGULATORY COMMISSION, ITS PREDECESSOR AGENCY, THE ATOMIC ENERGY COMMISSION, HAD SUCCESSFULLY DESIGNATED INDIVIDUAL COMMISSIONERS AS RESPONSIBLE FOR PARTICULAR PROGRAM AREAS. THE REORGANIZATION PLAN DOES NOT SPECIFICALLY PROVIDE FOR SUCH AN APPROACH BUT THE CHAIRMAN COULD SHARE HIS AUTHORITY FOR OPERATIONS WITH OTHER COMMISSIONERS. ALL THOSE INTERVIEWED

EMPHASIZED THAT INDIVIDUAL COMMISSIONERS COULD ALWAYS SEND THEIR OWN LETTERS AND THAT THE ISSUE AROSE MOST FREQUENTLY WHEN RESPONSES TO CONGRESSIONAL COMMITTEES AND MEMBERS WERE INVOLVED. IT WAS BELIEVED BY MOST OF THOSE INTERVIEWED THAT IF THE CHAIRMAN WERE PERCEIVED TO BE PRECLUDING INDIVIDUAL COMMISSIONER VIEWS IN SUCH CIRCUMSTANCES, HE WOULD BE SEVERELY CRITICIZED BY ONE OR MORE CONGRESSIONAL COMMITTEES AND THE INDIVIDUAL VIEWS WOULD BE CALLED FOR IN ANY EVENT. ONE FORMER CHAIRMAN INDICATED THAT SOME MEMBERS OF CONGRESS ARE MORE INTERESTED IN DISSENTING VIEWS THAN IN THE COLLEGIAL VIEWS OF THE COMMISSION AND CONSEQUENTLY DO NOT TREAT THE CHAIRMAN AS THE OFFICIAL SPOKESMAN IN ANY EVENT.

ANOTHER AREA DISCUSSED WHERE ADDITIONAL AUTHORITY MIGHT BE EXERCISED WAS IN SUPERVISION AND CONTROL OF STAFF RESOURCES. THE CHAIRMAN MIGHT REQUIRE ALL REQUESTS OF THE STAFF BY INDIVIDUAL COMMISSIONERS TO COME THROUGH THE CHAIRMAN'S OFFICE. NONE OF THE FORMER CHAIRMEN INTERVIEWED BELIEVED THAT THIS WAS PRACTICAL SINCE COMMISSIONERS HAVE HISTORICALLY INTERPRETED THE PHRASE "ACCESS TO INFORMATION" AS MEANING "PRECISELY, FULLY AND WHATEVER AN INDIVIDUAL COMMISSIONER DEEMED NECESSARY" TO FULFILL THE FUNCTIONS OF THE COMMISSIONER'S OFFICE. AS ONE FORMER CHAIRMAN OBSERVED, IT WOULD BE VERY DIFFICULT TO CHALLENGE THE POSITION OF AN INDIVIDUAL COMMISSIONER REQUESTING STAFF

INITIALLY NOTED THAT THE "LEAD" COMMISSIONER CONCEPT WORKED ONLY WHERE A MAJORITY OF THE COMMISSION WAS WILLING TO DEFER TO THE JUDGMENT AND EXPERTISE OF AN INDIVIDUAL COMMISSIONER. THE FORMER CHAIRMEN WERE SKEPTICAL ABOUT THE CONCEPT NOTING THAT THERE WAS NO REASON TO BELIEVE A "LEAD" COMMISSIONER WOULD BE ANY MORE SUCCESSFUL THAN THE CHAIRMAN SINCE THREE COMMISSIONERS WOULD ALWAYS BE NECESSARY IN ORDER TO EXERCISE EFFECTIVE AUTHORITY. ONE FORMER CHAIRMAN NOTED THE CONCEPT MIGHT HAVE UTILITY IF INDIVIDUAL COMMISSIONERS BECAME MORE AGGRESSIVE ABOUT DEFENDING THE PREROGATIVES OF THE EDO. HE THOUGHT THAT IF THE COMMISSIONERS DEFERRED TO ONE ANOTHER'S AREAS AND THAT EACH IN TURN RELIED UPON THE EDO TO IMPLEMENT POLICY IN THE AREA THAT THEN THE COMMISSIONERS WOULD HAVE A SENSE OF RESPONSIBILITY REQUIRING THEM TO SUPPORT THE EDO AND THE STAFF WHEN AN ISSUE CAME BEFORE THE COMMISSION.

ONLY TWO OF THE SITTING COMMISSIONERS LIKED THE LEAD COMMISSIONER CONCEPT. ONE THOUGHT IT WAS DESIRABLE TO TAKE ADVANTAGE OF INDIVIDUAL COMMISSIONER'S EXPERTISE. ANOTHER THOUGHT THE CONCEPT WAS WORKABLE IF THE INDIVIDUAL COMMISSIONER WAS AWARE OF THE VIEWS OF THE OTHER COMMISSIONERS AND WAS WILLING TO TAKE THEM INTO ACCOUNT WHEN DIRECTING THE WORK OF THE STAFF IN A PARTICULAR AREA. ALL THOSE INTERVIEWED BELIEVED THE CONCEPT WAS ONLY WORKABLE WHERE INDIVIDUAL COMMISSIONERS WERE WILLING TO TRUST ONE ANOTHER TO IMPLEMENT THE WILL OF THE

COLLEGIAL BODY. ONE COMMISSIONER NOTED THAT THE "LEAD" COMMISSIONER CONCEPT'S BIGGEST ADVANTAGE MIGHT BE THAT OF GIVING EACH COMMISSIONER A STAKE IN BUILDING A CONSENSUS ON THE COMMISSION, A STAKE WHICH ONLY THE CHAIRMAN HAS UNDER CURRENT COMMISSION OPERATING PROCEDURES. A FORMER CHAIRMAN NOTED THAT THE MAJOR ARGUMENT AGAINST ITS ADOPTION WAS THAT THE CONCEPT WOULD SERVE TO FURTHER FRAGMENT -- RATHER THAN CENTRALIZE -- THE MANAGERIAL FUNCTIONS OF THE NRC.

OBSERVATIONS ABOUT MODIFICATIONS TO THE REORGANIZATION PLAN WHICH WOULD RESULT IN A MORE EFFICIENT AND EFFECTIVE EXERCISE OF AUTHORITY BY THE CHAIRMAN WERE SIMILAR. ALL AGREED THAT IF CHANGES WERE DEEMED NECESSARY THAT THE MOST LOGICAL CHANGE WOULD BE TO ESTABLISH A SINGLE ADMINISTRATOR FORM OF REGULATORY MANAGEMENT. HOWEVER, ALL ALSO AGREED THAT SINCE THE SINGLE ADMINISTRATOR APPROACH WAS NOT LEGISLATIVELY ADOPTED BY CONGRESS FOLLOWING THE STRONG RECOMMENDATIONS TO DO SO FROM THE KEMENY COMMISSION FOLLOWING TMI, THERE WAS NO REASON TO BELIEVE CONGRESS WOULD BE MORE INCLINED TO ADOPT SUCH AN ORGANIZATION NOW EVEN IF IT COULD BE ARGUED THAT THERE WERE ADDITIONAL COMPELLING CIRCUMSTANCES (SUCH AS THE FAILURE OF THE REORGANIZATION PLAN TO ACHIEVE THE INTENDED RESULT) WHICH MIGHT SUPPORT A CHANGE.

TWO COMMISSIONERS NOTED THAT THE PUBLIC WANTS AND PROBABLY WOULD DEMAND A COMMISSION FORM OF REGULATION. THESE COMMISSIONERS FELT THE REORGANIZATION PLAN AS CURRENTLY STRUCTURED PROVIDES A FAIR BALANCE BETWEEN THE NEED FOR SINGLE LEADERSHIP TO MANAGE PERSONNEL AND RESOURCES AND THE NEED FOR COLLEGIALITY AND DIVERSITY OF VIEWPOINT ON HIGHLY CONTROVERSIAL MATTERS. TWO COMMISSIONERS FELT THAT AN ADMINISTRATIVE AND MANAGEMENT ROLE UNDER THE REORGANIZATION PLAN IS DIFFICULT AND NEARLY IMPOSSIBLE FOR A COMMISSION FORM OF ORGANIZATION WHICH IS SO PROCEDURALLY AND LEGALLY CONSTRAINED. THESE COMMISSIONERS POINTED TO THE SUNSHINE ACT, THE EX PARTE/SEPARATION OF FUNCTIONS STATUTES, AND THE FREEDOM OF INFORMATION ACT AS COMPLICATING THE FREE EXCHANGE OF IDEAS AMONG COMMISSIONERS AND INHIBITING GOOD COLLEGIAL DECISION-MAKING. THEY NOTED THAT A SINGLE ADMINISTRATOR HAS FEW OF THESE PROBLEMS AND IN ADDITION DOES NOT HAVE TO CONSULT FOUR OTHER PEOPLE BEFORE ACTING. THEY CONCLUDED THAT IF THE PURPOSE OF A COMMISSION FORM OF ADMINISTRATION IS TO BUILD PUBLIC CONFIDENCE IN THE DECISION-MAKING PROCESS, THE PRACTICAL EFFECT IS JUST THE OPPOSITE.

THE STUDY GROUP CONCLUDED THAT THE REORGANIZATION PLAN AS PRESENTLY WRITTEN DOES NOT PERMIT THE CHAIRMAN TO EXERCISE AUTHORITY MUCH DIFFERENTLY THAN WAS THE CASE BEFORE THE PLAN WAS ADOPTED. COMMISSIONERS CAREFULLY PRESERVE THE PREROGATIVE TO

ACT COLLEGIALLY AND THE CHAIRMAN MUST ACT DEFERENTIALLY TO SUCH PREROGATIVE IF HE IS TO SUCCESSFULLY BUILD CONSENSUS ON THE MOST IMPORTANT COMMISSION MATTERS. THIS NECESSARILY REQUIRES THAT THE CHAIRMAN REFRAIN FROM ACTIONS AS THE HEAD-OF-THE-AGENCY WHICH WOULD IMPAIR THE COMMISSION'S COLLEGIALITY.

THE STUDY GROUP EXAMINED THE RESULTS OF THE INTERVIEWS BY EVALUATING THE CHAIRMAN'S TWO KEY ROLES UNDER THE REORGANIZATION PLAN. FIRST, THE CHAIRMAN CONVENES THE COMMISSION AND PARTICIPATES IN THE FUNCTIONS THAT ARE VESTED SOLELY IN THE COMMISSION. IN THIS AREA THE GROUP PLACED PRIMARY EMPHASIS ON (1) THE COMMISSION'S AUTHORITY TO VOTE THAT A GIVEN MATTER PRESENTED A POLICY ISSUE RESERVED FOR THE COMMISSION; (2) THE "LEAD" COMMISSIONER CONCEPT; (3) PERSONNEL APPOINTMENTS AND REMOVALS; AND (4) THE REQUEST AND RECEIPT OF REPORTS FROM THE STAFF BY COMMISSIONERS. SECOND, THE CHAIRMAN HAS EXCLUSIVE AUTHORITY OVER SPECIFIC FUNCTIONS UNDER THE REORGANIZATION PLAN. IN THIS LATTER AREA THE GROUP REVIEWED THE CHAIRMAN'S FUNCTIONS AS (1) OFFICIAL AGENCY SPOKESMAN; (2) PRINCIPAL EXECUTIVE OFFICER FOR SUPERVISION OF THE STAFF AND DEVELOPMENT OF POLICY AND PLANNING GUIDANCE; AND (3) PRINCIPAL PREPARER OF AGENCY ORGANIZATION AND BUDGET PROPOSALS.

THE CHAIRMAN'S PARTICIPATION IN FUNCTIONS VESTED SOLELY IN THE COMMISSION IS NECESSARY AND APPROPRIATE. IF THE CHAIRMAN

FOCUSED ON ADMINISTRATIVE MATTERS AND BECAME INVOLVED DEEPLY IN THE DAY TO DAY ADMINISTRATION OF THE STAFF, IT WOULD BE NECESSARY FOR THE CHAIRMAN TO EXCUSE HIMSELF FROM MANY COMMISSION DELIBERATIONS AND VOTES BECAUSE OF EX PARTE/ SEPARATION OF FUNCTION REQUIREMENTS IN LAW. THIS WOULD RESULT IN MANY COMMISSION VOTES BEING TIED AND WOULD FURTHER EXACERBATE THE DIFFICULTY IN REACHING CLOSURE ON SIGNIFICANT POLICY OR SAFETY ISSUES. THE CHAIRMAN COULD TAKE MORE RISKS BY DECIDING NOT TO BRING MATTERS TO THE COMMISSION BECAUSE IT WAS BELIEVED SUCH MATTERS DID NOT PERTAIN TO COMMISSION FUNCTIONS OF ADJUDICATION, RULEMAKING, OR POLICY. SUCH A COURSE OF ACTION IS MORE THEORETICAL THAN REAL SINCE THE COMMISSION CURRENTLY HOLDS REGULAR AGENDA PLANNING SESSIONS. IT CAN BE SAFELY ASSUMED THAT IF THE COMMISSION AS A BODY DID NOT BELIEVE ITEMS PLACED ON THE AGENDA WERE WORTHY OF COMMISSION POLICY ATTENTION, IT WOULD SAY SO. CONSEQUENTLY, IT IS UNLIKELY THAT THE COMMISSION WOULD NOT VOTE TO REQUIRE THE CHAIRMAN TO BRING ITEMS TO THE COMMISSION IF THE CHAIRMAN ATTEMPTED TO SIGNIFICANTLY RESTRICT THE CURRENT CHARACTER OF THE AGENDA.

THE "LEAD" COMMISSIONER CONCEPT APPARENTLY IS APPEALING TO AT LEAST TWO OF THE CURRENT COMMISSIONERS. THE ADVANTAGE OF SUCH AN APPROACH APPEARS TO BE THAT OF GIVING AN INDIVIDUAL COMMISSIONER BOTH RESPONSIBILITY AND AUTHORITY FOR THE SUCCESS OF COMMISSION PROGRAMS IN PARTICULAR AREAS. THE CONCEPT ALSO

WOULD REQUIRE MORE COMMISSIONER TIME IN ASSIGNED AREAS THUS ALLOWING LESS TIME FOR FULL COMMISSION DELIBERATION OF OTHER MATTERS WHICH MAY NOT BE WORTHY OF SUCH TREATMENT. THIS MIGHT BE PERCEIVED AS ULTIMATELY GIVING THE CHAIRMAN MORE FLEXIBILITY IN THE ESTABLISHMENT OF THE COMMISSION AGENDA. THE DRAWBACKS OF THIS APPROACH ARE THOSE NOTED IN THE INTERVIEWS. FIRST, THE APPROACH IS ONLY VIABLE WHERE THE COMMISSIONERS ARE WILLING TO TRUST AND RESPECT THE JUDGEMENTS OF THEIR COLLEAGUE IN A PARTICULAR AREA. SECOND, IT ASSUMES THAT AN INDIVIDUAL COMMISSIONER WHO HAS THE LEAD IN AN AREA WILL ATTEMPT TO DISCERN AND IMPLEMENT THE WILL OF THE MAJORITY. FINALLY, IT WOULD FRAGMENT RATHER THAN CENTRALIZE MANAGEMENT OF THE AGENCY.

IN THE PAST, CHAIRMEN HAVE NOT OBJECTED FREQUENTLY TO INDIVIDUAL COMMISSIONER REQUESTS OF THE EEOC STAFF. THIS IS IN PART BECAUSE THE REORGANIZATION PLAN IMPOSED UPON THE CHAIRMAN THE DUTY TO ENSURE THAT INDIVIDUAL COMMISSIONERS ARE "FULLY AND CURRENTLY INFORMED" ABOUT MATTERS WITHIN THE COMMISSION'S FUNCTIONS. SINCE THE COMMISSION HAS THE AUTHORITY TO VOTE THAT ANY MATTER IS WITHIN ITS FUNCTION, THE CHAIRMAN WOULD BE JUSTIFIED BY BEING CIRCUMSPECT ABOUT UNDULY INTERFERING WITH AN INDIVIDUAL COMMISSIONER'S REQUEST. THIS IS PARTICULARLY TRUE SINCE COMMISSIONERS TEND TO PROTECT THE COLLEGIAL PROCESS IN COMMISSION VOTES WHETHER OR NOT THEY ARE IN SUBSTANTIVE AGREEMENT WITH ONE ANOTHER.

THE REORGANIZATION PLAN ENUMERATES MATTERS OVER WHICH THE CHAIRMAN HAS EXCLUSIVE AUTHORITY. OTHER THAN EMERGENCY SITUATIONS WHERE THE CHAIRMAN'S AUTHORITY OVER ALL AGENCY FUNCTIONS IS CLEAR AND EXPLICIT, THE CHAIRMAN ESSENTIALLY IS GIVEN ADMINISTRATIVE AND ORGANIZATIONAL RESPONSIBILITY. THIS INCLUDES SERVING AS THE AGENCY'S OFFICIAL SPOKESMAN, REORGANIZATION OF PERSONNEL AND OFFICES, BUDGET PROPOSALS, AND DISTRIBUTION OF APPROPRIATED FUNDS. TO THE EXTENT THAT THESE MATTERS INVOLVED ADMINISTRATIVE FUNCTIONS OF THE CHAIRMAN, THEY WERE OF LITTLE INTEREST TO THOSE THAT THE STUDY GROUP INTERVIEWED AND APPEAR NOT TO BE CONTROVERSIAL WITHIN THE CURRENT COMMISSION. 2/ THE ONE EXCEPTION COULD BE THE CHAIRMAN'S ROLE AS OFFICIAL AGENCY SPOKESMAN.

THE CHAIRMAN HAS THE AUTHORITY TO SPEAK ON BEHALF OF THE AGENCY. WHILE THIS ROLE REQUIRES THE CHAIRMAN TO ACCURATELY REFLECT THE VIEWS OF THE COMMISSION AS A BODY, IT DOES NOT REQUIRE THE PRIOR APPROVAL OF PROPOSED STATEMENTS BY THE OTHER COMMISSIONERS. THE CHAIRMAN COULD SPEAK AUTHORITATIVELY ON

2/ COMMISSIONERS DO, HOWEVER, TAKE AN ACTIVE INTEREST IN HOW THE BUDGET IS PREPARED PARTICULARLY WHERE FUNDING OF PROGRAMS OF PARTICULAR INTEREST TO A COMMISSIONER IS INVOLVED. OF COURSE, THE COMMISSION GENERALLY APPROACHES THESE MATTERS AS POLICY ISSUES. THE CONCLUSION THAT SUCH MATTERS ARE OF LITTLE INTEREST TO COMMISSIONERS IS ONLY VALID TO THE EXTENT THAT SUCH FUNCTIONS ARE VIEWED AS MINISTERIAL AND ADMINISTRATIVE RATHER THAN POLICY-RELATED.

BEHALF OF THE AGENCY WITHOUT PRIOR CONSULTATION. THE PROBLEM WITH THIS APPROACH IS OBVIOUS. INDIVIDUAL COMMISSIONERS CAN WRITE THEIR OWN SPEECHES, DRAFT THEIR OWN PRESS RELEASES, AND WRITE THEIR OWN LETTERS. CONSEQUENTLY, FAILURE TO SEEK COMMISSIONER INPUT TO THE CHAIRMAN'S STATEMENTS WOULD ONLY RESULT IN AGENCY RESOURCES BEING SPENT TO PUT OUT FOUR ADDITIONAL VIEWS.

THE STUDY GROUP CONCLUDED THAT GIVEN THE HISTORY OF THE COMMISSION TO DATE AND THE LEGAL CONSTRAINTS IMPOSED ON THE CHAIRMAN BY THE REORGANIZATION PLAN, THE CHAIRMAN IS EXERCISING THE AUTHORITY THAT HAS BEEN PROVIDED AND THERE IS LITTLE MORE PRACTICAL AUTHORITY WHICH COULD BE PRODUCTIVELY USED. THE APPROPRIATIONS REPORT REQUESTED THAT THE CHAIRMAN REEXAMINE HIS AUTHORITY WITH PARTICULAR REFERENCE TO IMPROVEMENTS IN NRC MANAGEMENT OF THE TYPE RECOMMENDED BY THE KEMENY AND GRACE COMMISSIONS.

THE GRACE COMMISSION SUGGESTION THAT THE CHAIRMAN BE GIVEN A STRONGER APPOINTMENT AND REMOVAL AUTHORITY OVER SENIOR STAFF DOES NOT INVOLVE A MATTER WHERE THE CHAIRMAN'S AUTHORITY WOULD BE SIGNIFICANTLY STRENGTHENED UNDER THE REORGANIZATION PLAN. THOSE INTERVIEWED BELIEVED THAT THE CHAIRMAN'S APPOINTMENT AND REMOVAL AUTHORITY WAS GENERALLY ADEQUATE AND RELATIVELY NONCONTROVERSIAL. TO STRENGTHEN THE REORGANIZATION PLAN LEGISLATIVELY

AS RECOMMENDED BY THE GRACE COMMISSION PROBABLY WOULD REQUIRE THE REMOVAL OF THE PROVISION ALLOWING COMMISSIONERS TO BRING ANY MATTER BEFORE THE COLLEGIAL BODY ON A MAJORITY VOTE. WHETHER ANY CHANGE IN THE WAY THE COMMISSION FUNCTIONS WOULD RESULT AS A CONSEQUENCE IS DEBATABLE. SOME WOULD ARGUE THAT CHANGE IS NOT POSSIBLE SO LONG AS THE TRADITIONS OF THE COMMISSION ARE PASSED ON FROM COMMISSIONER TO COMMISSIONER DUE TO STAGGERED TERMS.

THE KEMENY COMMISSION CALLED FOR MORE DRAMATIC CHANGES IN THE ORGANIZATION AND MANAGEMENT OF THE AGENCY. IN THIS REGARD IT IS USEFUL TO RECALL THE KEMENY COMMISSION FINDINGS AND RECOMMENDATIONS:

> "THE NRC COMMISSIONERS HAVE LARGELY ISOLATED THEMSELVES FROM THE LICENSING PROCESS. ALTHOUGH THE COMMISSIONERS HAVE ADOPTED UNNECESSARILY STRINGENT EX PARTE RULES TO PRESERVE THEIR ADJUDICATIVE IMPARTIALITY, THEY HAVE ALSO DELEGATED MOST OF THE ADJUDICATIVE DUTIES TO THE ATOMIC SAFETY AND LICENSING APPEAL BOARD AND ACTUALLY ADJUDICATE APPROXIMATELY 25 PER CENT OF ALL LICENSING DECISIONS. ... THE COMMISSIONERS HAVE ALSO ISOLATED THEMSELVES FROM THE OVERALL MANAGEMENT OF THE NRC."
>
> "THE NUCLEAR REGULATORY COMMISSION SHOULD BE RESTRUCTURED AS A NEW INDEPENDENT AGENCY IN THE EXECUTIVE BRANCH. THE PRESENT FIVE-MEMBER COMMISSION SHOULD BE ABOLISHED. THE NEW AGENCY SHOULD BE HEADED BY A SINGLE ADMINISTRATOR. ...THE ADMINISTRATOR SHOULD HAVE SUBSTANTIAL DISCRETIONARY AUTHORITY OVER THE INTERNAL ORGANIZATION AND MANAGEMENT OF THE NEW AGENCY, AND OVER PERSONNEL TRANSFERS FROM THE EXISTING NRC. UNLIKE THE PRESENT NRC ARRANGEMENT, THE ADMINISTRATOR AND MAJOR STAFF COMPONENTS SHOULD BE LOCATED IN THE SAME BUILDING OR GROUP OF BUILDINGS."

WITH REGARD TO THESE PARTICULAR RECOMMENDATIONS OF THE KEMENY COMMISSION, IT IS CLEAR THAT THE CHAIRMAN IS STILL HAMPERED BY THE SAME CONSTRAINTS THAT THE KEMENY COMMISSION THOUGHT SHOULD BE RECTIFIED. THE COMMISSION STILL DELEGATES MOST OF THE ADJUDICATIVE FUNCTIONS TO THE APPEAL BOARD. THE COMMISSION IS ALSO ISOLATED FROM THE OVERALL MANAGEMENT OF THE NRC DUE TO THE EX PARTE/SEPARATION OF FUNCTION RULE PERTAINING TO ITS ADJUDICATORY RESPONSIBILITIES. THE NRC IS STILL LOCATED IN MULTIPLE BUILDINGS. NOTHING IN REORGANIZATION PLAN NO. 1 IS ADDRESSED TO THESE PARTICULAR PROBLEMS. CONSEQUENTLY, TO THE EXTENT THAT THE PURPOSE OF THE CHAIRMAN'S REEXAMINATION WAS TO DETERMINE WHICH, IF ANY, OF THESE PARTICULAR RECOMMENDATIONS COULD BE MORE FULLY IMPLEMENTED, IT IS APPARENT THAT THERE IS LITTLE MORE THAT CAN BE DONE WITHIN THE CONTEXT OF THE EXISTING REORGANIZATION PLAN.

UNITED STATES
NUCLEAR REGULATORY COMMISSION

ANNOUNCEMENT NO. 4
DATE: January 12, 1984

TO: ALL NRC EMPLOYEES

SUBJECT: 1984 POLICY AND PLANNING GUIDANCE

Attached is your personal copy of the Commission's 1984 Policy and Planning Guidance (PPG).

NRC's greatest resource is its employees. A primary purpose of the PPG is to state clearly the major policies and planning objectives of the Commission so that all employees will know where the Agency is headed. I hope you will read it carefully. Let me again express my appreciation for your efforts in achieving NRC's mission to protect public health and safety.

Nunzio J Palladino

Nunzio J. Palladino
Chairman

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POLICY AND PLANNING GUIDANCE

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POLICY AND PLANNING GUIDANCE

I. INTRODUCTION

Purpose

The purposes of the Policy and Planning Guidance document are as follows:

-- to state, clearly and succinctly, the major policies and planning objectives of the Commission so that all employees will know where the Agency is headed;

-- to provide a common basis within NRC for the development of programs, the establishment of priorities, and the allocation of resources;

-- to furnish guidance that can be used to develop Agency budget requests; and

-- to help fulfill the requirement that NRC's annual report to the President for submission to Congress contain a clear statement of the short-range and long-range goals, priorities, and plans of the Commission as they relate to the benefits, costs, and risks of commercial nuclear power.

The Commission believes that the publication, distribution, and careful review of this document will lead to a better focusing of individual and collective efforts within the agency. In this way it is hoped that the regulatory process will be more effective and efficient in fulfilling NRC's mission to protect the public.

Background

For this year the document has been reorganized somewhat to take into account the progress that has been made in several major areas in the past two years and to reflect the changing environment in which the agency must perform its regulatory job. Some structural changes have been made within the agency and its way of doing business. The issuance of regulatory requirements has been put under tighter control to foster promulgation of cost-effective requirements and prevent the issuance of unjustified or counterproductive demands on licensees. Selected NRC operations have been decentralized in the belief that there would be advantages to bringing regulatory functions as close as practicable to the people and facilities affected by them. In addition, an Office of Investigations was established in order to improve NRC's capability to perform thorough, timely and objective investigation of alleged violations of regulations or other improper actions with safety implications by licensees or their agents.

Other policy goals have been or are in the process of being achieved. The Commission has submitted proposed legislation to the Congress which, if enacted, would involve three closely-related concepts: the use of standardized power plants with designs that would be valid for many years in the future; the availability of preselected plant sites approved in advance of specific applications; and the authority to issue a combined construction permit and operating license so that as many issues as possible can be resolved early in the licensing process. In March 1983, the Commission issued a Policy Statement on Safety Goals for the Operation of Nuclear Power Plants. The Policy Statement contains preliminary safety goals and preliminary numerical design objectives that are intended to be consistent with the goals.

The document is organized into seven themes: Assuring the Safe Operation of Licensed Facilities; Raising the Quality of Nuclear Plants; Improving Regulation of the Nuclear Industry; Protecting Nuclear Material and Facilities; Cleaning Up TMI-2; Managing Nuclear Waste; and Sharpening Related Regulatory Tools.

For each theme there is a policy section which establishes a general framework for shaping NRC plans and programs. Planning guidance is furnished in those areas where the Commission believes more detail is warranted to meet specific priorities or schedules or where major assumptions are needed for program development. Guidance with respect to each and every activity within NRC is not furnished, since it is not intended that the document be all-inclusive. However, the Commission believes that the majority of NRC activities should fall within one or more of the Policy and Planning Guidance themes.

General Administrative Direction

The Executive Director for Operations will develop specific program guidance to implement this policy and planning guidance. The EDO will also maintain a management system for the Commission to track major program accomplishments that support the policy and planning guidance. The EDO should assure that agency resources are appropriately balanced to carry out the guidance in this document.

To carry out the policies of the Commission, the dedicated effort of all employees and the effective and efficient use of all other NRC resources is essential. Managers should recognize that NRC's greatest resource is its employees. The commission's most creative and productive employees should be recognized and provided opportunity for development.

Coordination of programs and the elimination of marginal programs should be considered in making the optimal use of limited resources.

It is the Commission's intention that nuclear regulation reflect a continuing commitment to come to grips with the reality of nuclear technology and of its relationship to those who control it, to those who work with it, to those who live near it, and to the general public. This commitment requires not only an open and effective approach within the agency, but an approach to the public (including the regulated public) that permits more efficient decisionmaking. As part of this process, the Commission must state its basic assumptions and criteria clearly, amend them when the facts so require and live by them consistently and forthrightly in all activities.

The consolidation of NRC's operations in either a single building or several buildings closely co-located as soon as possible continues to be an important goal for the Commission. The urgency of this need has been documented by every study that has addressed the NRC and its operation in the last several years. NRC will cooperate to the fullest with the General Services Administration on defining options to achieve the consolidation objective. The staff will develop options to consider locations in both downtown and suburban areas to achieve an interim consolidation at an early date.

II. ASSURING THE SAFE OPERATION OF LICENSED FACILITIES

Policy

1. NRC's fundamental task is to make sure that existing nuclear facilities and those coming on-line operate safely. Consequently, the highest priority will be given to assuring that operating facilities maintain adequate levels of protection of health and safety.
2. The staff should carry out NRC regulatory activities in a way that recognizes that licensees and vendors have the primary responsibility for the safe design, construction, and operation of nuclear facilities.
3. The NRC and the industry must continue to learn the lessons that only experience can teach. Accordingly, a high priority should be given to the development of commercial reactor operating expertise within the agency through training, hiring, and promotional practices and communication with the industry. Changes to the NRC's regulatory basis must be supported by close study of operating experiences.

4. The Commission continues to believe in containment integrity and emergency planning as essential parts of the defense-in-depth philosophy. Emergency planning should be based on realistic assumptions regarding severe accidents.

Planning Guidance

1. NRC on-site inspection of operating reactors should continue to focus on the operations of licensees, including maintenance activities. The analysis of operational data and systematic assessment of licensee performance will be used to help focus NRC activities, to allocate agency resources, and to access the licensee's management of its plant. Priority attention will be given to licensees with poor performance histories.

2. Efforts to collect, analyze, disseminate, and act upon operational data must continue to receive priority attention without hindering plant operation. AEOD should meet with the Commission as necessary (at least semi-annually) to report on any serious safety concerns. Recommendations for resolving these concerns should also be presented together with a report on the status of implementation.

3. The staff should continue the efforts approved in the NRC Human Factors Plan (NUREG-0985). Effective use should be made of available human factors data. The staff should develop by April 1984 for Commission review a human factors program plan element which proposes alternative NRC regulatory approaches with respect to maintenance activities.

4. Prior to implementation the staff should submit for approval of the Commission a proposal describing the need for and nature of the Integrated Safety Assessment Program.

5. The staff should investigate the need for and benefits of General Operating Criteria for nuclear power plants and submit the results for Commission consideration by the end of FY 1984. In this effort, consideration should be given to INPO activities on this subject.

6. In reviewing new and operating facilities, the staff should carefully consider the need for some reactor operators with commercial experience at every plant. In addition, it should carefully consider the competence and experience of the management and staff of that facility. The staff should also consider the need for, and benefits of, additional requirements for assuring an adequate level of experience and competence in licensee management.

7. The Commission will consider alternative regulatory concepts which recognize the contributions of industry self-policing programs to the extent that such programs are effective and consistent with NRC regulatory responsibilities.

8. Since many decisions of the Commission are based on the judgment that something is or is not "important to safety", the staff should develop criteria which could be used to determine, on a plant specific basis, what is important to safety. In developing these criteria, the staff should explore the problems associated with application of the criteria. The scope and schedule for developing such criteria should be provided to the Commission by February, 1984.

9. Inspection activities should focus more attention on maintenance and surveillance activities in plant operations, including preventive maintenance.

III. RAISING THE QUALITY OF NUCLEAR PLANTS

Policy

1. The NRC must improve its activities that affect quality in the nuclear industry. NRC's goal is to assure a high level of quality in management of reactor design, construction, operations, and maintenance.

2. For both construction activities and operating facilities the NRC needs to understand the causal factors leading to problems and to develop a modified institutional and legislative framework for future nuclear plants which will decrease the probability of repetition of past mistakes. The theme of "do it right the first time" should be adopted to ensure plants are built properly and can operate safely.

3. In order to reduce operational problems including maintenance and modification activities, the NRC needs to pursue more aggressively efforts (1) to assure utilities provide the appropriate management framework and capability for safe operation and maintenance of nuclear power plants; (2) to improve quality in utility operations and in procedures, systems, and components used in operations; and (3) to develop better guidance for the treatment of plant systems, components, and equipment that can adversely affect safe operation.

4. NRC should highlight the necessity for highly trained and qualified professionals for licensees, contractors and vendors to manage those functions that relate to safety.

Planning Guidance

1. NRC's quality assurance (QA) program should include continued integration of the QA licensing, inspection, standards, and research functions into a comprehensive and cohesive agency program which provides clear direction on QA matters to the NRC regions and to the industry. NRC should develop a Quality Assurance program which identifies overall program goals and objectives and provides task oriented framework for program implementation.

2. NRC will complete the Congressionally-mandated study of existing and alternative programs for improving quality assurance and quality control in the construction of commercial nuclear power plants. The study should provide the lessons learned from past quality problems in design and construction and approaches to prevent recurrence.

3. NRC should begin implementation of the improvements identified as a result of the Congressional study and continue development of related regulatory actions. NRC should also initiate drafting any legislative proposals resulting from the study.

4. Lessons learned from the study of design and construction problems should be examined for applicability to known or potential problems in operations and maintenance.

5. Coordination between NRC and INPO should continue in areas of assessing the design, construction, and operation of nuclear facilities. Exchange of information in order to identify early warning signals and corrective measures should be encouraged in order to prevent major problems.

6. New emphasis should be placed on vendor inspection. The staff should report to the Commission any new significant deficiencies discovered after implementation of the upgraded program.

IV. IMPROVING REGULATION OF THE NUCLEAR INDUSTRY

A. NEW REQUIREMENTS

Policy

1. NRC must be sensitive to the fact that there is a large volume of requirements imposed on licensees. Effective measures must

continue to be taken to provide for the issuance of necessary new requirements in a timely manner.

2. Requirements imposed on the regulated industry by NRC are to have a positive contribution to safety, not only individually, but also when the requirements are taken as a whole. Requirements proposed to achieve incremental reductions in risk should be evaluated on a cost-benefit basis, insofar as practicable. Unnecessary regulatory burdens are to be avoided, and NRC regulations should allow individual licensees the flexibility to select the most cost-effective ways to satisfy NRC safety objectives particularly for plant specific requirements with due consideration of item 3.

3. Issues which affect numerous licensees should be addressed in the context of rule-making as opposed to case-by-case review to the extent practicable and insofar as practical, an effort should be made to avoid building in more differences among plants than already exist. The safety advantages of uniform solutions which permit greater standardization of hardware, procedures and training should be taken into account.

4. Unresolved safety issues should be promptly pursued, and the solutions should be based on a careful analysis of the costs and benefits of implementation. Priorities for implementation should be established in light of the safety significance of the issue and all other requirements imposed on the licensee.

5. In cases where there are conflicting priorities in establishing and implementing new requirements, priorities will be based on the expected safety-benefit potential and costs associated with the new requirement.

Planning Guidance

1. With the goal of enhancing the levels of protection of public health and safety, the Committee for Review of Generic Requirements (CRGR) should continue to review and make recommendations to the EDO on proposed generic requirements for reactor licensees. The CRGR should continue to assure that proposed requirements (a) contribute significantly to the health and safety of the public, and (b) provide for the utilization of both NRC and licensee resources in a manner which effectively and efficiently achieves protection of the public health and safety.

2. The staff should implement the recommendations in SECY-83-321 to manage the plant-specific backfitting of operating reactors. After one year of experience gained from the application of these

procedures, the staff should provide the Commission with an evaluation of the results of managing plant-specific backfit requirements.

3. Existing regulatory requirements that have a marginal importance to safety should be eliminated.

4. An integrated implementation schedule for new and existing requirements reflecting relative priorities should be established for each power reactor licensee. The results of cost-benefit analysis should be used where practical and where the degree of understanding and data permit as one tool for evaluating new requirements. Cost estimates for these requirements must be reasonably accurate. The schedules should reflect the importance of the safety requirement to the public health and safety and consider the licensee's ability to complete the necessary engineering, evaluation and design. Once compliance dates have been established, the Commission will vigorously enforce license conditions associated with such schedules.

5. By the end of FY 1985, the staff will issue for public comment draft technical resolutions for all currently identified unresolved safety issues.

6. The staff should continue to assess the priorities for generic safety issues and control the addition of new generic safety issues in accordance with SECY-83-221.

7. Cost estimates for regulatory actions must be reasonably accurate. Where costs estimates are provided by industry, they should be independently and carefully evaluated for accuracy.

8. Detailed guidance on performing cost-benefit analyses must be developed and used. Revisions of the current cost-benefit manual should be submitted to,and approved by, the Commission.

9. On major issues presented to the Commission by the staff, the rationale for accepting or rejecting principal alternatives should be described.

B. LICENSING REFORMS

Policy

1. The Commission achieved through consensus an agreement on licensing reform legislation and forwarded that legislation to Congress in February 1983. The Congress is now considering the legislative package. Administrative reforms proposed by the Regulatory Reform

Task Force (RRTF) include revision to the backfit rule, revising the role of the staff as a party and ex parte communications, and a number of revisions to the administrative hearing process. These reforms should receive high priority and will require additional consideration before implementation.

Planning Guidance

1. The Commission will monitor the effectiveness of reforms as they are implemented by the staff. The Commission expects to complete its first round of deliberations with respect to the remaining administrative reform by March 1984.

C. STANDARDIZATION

Policy

1. The NRC recognizes that there are advantages to the development and use of standardized nuclear power plant designs. Such designs can benefit public health and safety by concentrating the resources of designers, engineers and vendors on particular approaches, by stimulating standardized programs of construction practice and quality assurance, by improving the training of personnel and by fostering more effective maintenance and improved operations. The use of such designs can also permit more effective and efficient licensing and inspection processes.

Planning Guidance

1. NRC should continue to review standard plant design applications and maintain the necessary licensing capability.

D. DECENTRALIZATION

Policy

1. The staff should continue to implement the policy goals approved by the Commission in October, 1981.

Planning Guidance

1. The staff should continue to discuss the nature and extent of decentralization with licensees in order to promote better information flow and improve regulatory interaction.

2. The Commission's March 25, 1983 Policy Statement on Regionalization should be revised to reflect Commission action on the staff's

proposal for a pilot program for decentralizing licensing activities of operating power reactors and any Commission action or legislative direction.

3. Headquarters offices are responsible for assuring that NRC programs are applied consistently in each region in conformance with Commission policies. Assessments of the implementation of the regional inspection and licensing programs should be performed to determine the effectiveness of the program.

E. INVESTIGATIONS

Policy

1. The Office of Investigations shall investigate significant allegations of wrongdoing by other than NRC employees and contractors as requested by the Commission, EDO, Regional Administrators, or on their own initiative. Investigations should be thorough and should try to identify the root causes and reasons for violations.

2. Investigations shall be conducted when regulatory violations appear to be deliberate. When initial collection of evidence indicates that the matter involves criminality, appropriate referrals will be made to the Department of Justice.

Planning Guidance

1. The Office of Investigations, in coordination with the EDO, should develop criteria to determine the threshold for initiating an investigation in order to better establish priorities of investigations to pursue based on their impact on public health and safety.

2. The EDO should provide technical support in the conduct of investigations.

3. Investigations should be performed in a timely manner and findings and conclusions provided to other Offices. Findings of potential safety significance should be immediately referred to the cognizant office.

4. Close coordination should be established between the Offices of Investigation, Inspection and Enforcement, Nuclear Reactor Regulation, Nuclear Material Safety and Safeguards, and the Regional Offices to assure the results of investigations are followed by appropriate action.

F. ENFORCEMENT

Policy

1. NRC should maintain an effective enforcement program with uniform application of enforcement policy throughout the regional offices. The enforcement program should be firm but fair. The goals of NRC's enforcement program will be to assure compliance with NRC safety and safeguards requirements.

2. NRC enforcement activities must be directed to assure that licensee corrective actions for performance deficiencies are appropriate and that future compliance with requirements is encouraged. For licensees that do not comply, prompt and vigorous action will be taken. A licensee must not benefit by violating NRC regulations. Licensees who cannot achieve and maintain an adequate level of protection of the public health and safety will not be permitted to operate.

3. Inspections on which enforcement activities are based should be thorough and should seek to identify the basic reasons why violations and deficiencies occurred.

4. Enforcement actions should encourage an aggressive safety approach by licensees and credit should be given for prompt reporting of deficiencies by licensees and for prompt, thorough, and whole-hearted corrective actions.

Planning Guidance

1. The staff should initiate a study to evaluate present enforcement practices in the nuclear power industry along with an appraisal of alternative enforcement programs to ascertain their impact on nuclear plant safety and in motivating management and operating personnel engaged in nuclear plant operations to strive for higher standards of safety. The staff should examine various enforcement options by which greater attention can be directed toward the performance of licensed operators. Enforcement policies in other government agencies should be considered in this study.

2. The staff should expedite enforcement actions to achieve a goal of issuance of proposed civil penalty actions within eight weeks after completion of the inspection or investigation.

3. Experience gained from application of enforcement policy should be used to evaluate that policy. An evaluation report shall be

provided to the Commission during the first quarter of each fiscal year.

G. TIMELY LICENSING OF FACILITIES

Policy

1. The NRC intends that its regulatory processes be efficient and cost effective. Actions should continue to be taken to eliminate unwarranted delay in reaching decisions consistent with not compromising safety. The Commission reaffirms its statement of policy on the conduct of licensing proceeding of May 1981, which urged licensing boards to take actions needed to assure the efficient conduct of hearings.

Planning Guidance

1. Consistent with maintaining the safety of operating facilities, staff reviews and public hearings should be completed on a schedule that assures the licensing process will not be a critical path item which could unnecessarily delay reactor startup.

2. NRC must continue to work with FEMA to resolve difficulties in securing the findings for off-site emergency plans for nuclear power plant sites in a timely fashion.

H. TRANSPORTATION

Policy

1. The Commission considers the regulation of the transportation of nuclear and radioactive materials to be an important ongoing element of its responsibilities.

Planning Guidance

1. The staff should assure that NRC responsibilities in regulating the transportation of nuclear and radioactive materials are clearly enunciated and should coordinate with other Federal agencies to achieve an integrated Federal program for protecting the public health and safety of the environment.

V. PROTECTING NUCLEAR MATERIAL AND FACILITIES

A. DOMESTIC SAFEGUARDS

Policy

1. Safeguards are an integral and ongoing element of the Commission's responsibility. Safeguards regulation should be conducted with the same defense-in-depth philosophy as safety regulation and should assure that each licensee establishes and maintains an adequate system of safeguards to protect licensed facilities, special nuclear materials, and related activities. The system must be designed to protect against acts of sabotage as defined in 10 CFR Part 73 and to prevent the theft of special nuclear material.

2. Emphasis should be given to performance requirements rather than prescriptive requirements to allow licensees to select the most cost-effective ways to satisfy NRC requirements.

3. Implementation of safeguards requirements shall not be contrary to the safe operation of a facility. Safety impacts of all new safeguards requirements shall be evaluated.

Planning Guidance

1. Evaluation of safeguards events will serve as a basis for regulatory change and response. This evaluation should include domestic events -- within both the defense and the regulated community -- and foreign events. However, the staff should not wait for significant events to occur before undertaking safeguards changes that are considered necessary. The staff shall not engage in any intelligence activities but rely on the intelligence community for information.

2. Staff, in addition to assuring that safeguard plans are in place at operating facilities and for transportation, will continue its independent assessment that these implemented plans meet safeguards objectives and that safeguards regulations adequately support those objectives. An annual report shall be provided to the Commission detailing the results of the previous year's assessments. The report shall contain recommendations for continuing or discontinuing the assessment.

B. INTERNATIONAL SAFEGUARDS

Policy

1. The proliferation of nuclear explosive devices poses a threat to the security interests of the United States. Hence, the NRC will carefully discharge its statutory licensing responsibilities to ensure that effective controls are applied to the import and export of nuclear materials, equipment, and facilities.

Planning Guidance

1. The NRC should continue to facilitate the timely processing of export license applications to nations which adhere to effective non-proliferation policies. The NRC will also continue to meet its commitments for the implementation of IAEA safeguards at U.S. licensed facilities and to work with the Executive Branch as the U.S. pursues improvements in international safeguards.

2. The staff should continue to pursue obtaining timely, accurate and complete information from the Executive Branch regarding exports so that the Commission can carry out its international responsibilities.

3. NRC will pursue efforts to convert foreign and domestic research reactors away from highly enriched uranium fuel as stated in the Commission's Policy statement of August, 1982. These efforts should recognize the legitimate needs of the research community.

VI. CLEANING UP TMI-2

Policy

1. The radioactive materials at TMI-2 remain a potential health and safety hazard to the public and workers. Expeditious and safe cleanup of the TMI-2 reactor is one of NRC's highest safety priorities. While direct responsibility for cleanup rests with the licensee, NRC will provide oversight and, if necessary, direction to ensure prompt decontamination of the facility as well as safe and timely removal of radioactive products from the site.

2. NRC should work closely with DOE to obtain technical information on severe accidents that may be available from the TMI-2 core.

Planning Guidance

1. NRC will continue monitoring site cleanup activities through a dedicated TMI program office.

2. NRC should closely monitor its agreement with DOE which relates to the removal and disposition of solid nuclear wastes from the cleanup of TMI-2. The objective of NRC's monitoring is to help assure that the wastes are safely and expeditiously removed from the site. NRC should also assist DOE in development of plans for the safe and timely offsite disposition of the damaged core.

VII. MANAGING NUCLEAR WASTE

Policy

1. The NRC waste management program is critical to the success of an urgent national task. NRC will provide the necessary licensing and regulatory oversight for the Executive Branch's program as required by the Nuclear Waste Policy Act of 1982 (NWPA) or otherwise approved by Congress. NRC's programs will be based on the premise that, in the absence of unresolved safety concerns, the NRC regulatory program will not delay implementation of the Executive Branch's program.

2. The staff should continue to maintain close communications with DOE, the states and affected Indian tribes so that required activities and lead times are identified early in the planning process. As part of this activity the staff should be prepared to accommodate state and Indian tribe participation in NRC high level waste activities.

3. To the extent possible, and consistent with NRC's independent role, research required to support programs to implement the NWPA should be performed by DOE. NRC will continue its technical program to support the development of licensing criteria and the early identification of technical issues.

4. The NRC will monitor the activities associated with the Low Level Radioactive Waste Policy Act and provide advice as necessary to the Congress and technical assistance to the States as necessary.

Planning Guidance

1. The staff should develop a memorandum of understanding with DOE to cover the NRC's interactions with DOE in implementing the provisions of the NWPA.

2. The staff should review the existing and proposed regulations that are covered by areas addressed by the NWPA, and make conforming changes as necessary. When EPA standards are published, regulations should be reviewed to determine whether any changes are required.

3. The NWPA has established that nuclear utilities have the primary responsibility for interim storage of spent fuel, pending repository operation or availability of monitored retrievable storage. The NRC should review in a timely manner utility proposals for adding spent fuel storage capacity to assure that, in the absence of unresolved safety concerns, regulatory delays do not affect reactor operation. NRC must also be prepared to conduct licensing reviews specified by the NWPA for limited federal interim storage capacity of spent fuel which may be proposed by DOE. The NRC should continue to develop the basis for rulemaking that would to the extent practicable enable use of dry spent fuel storage casks without site-specific licensing reviews.

4. The staff shall report to the Commission on the changes required in our regulations to implement the EPA mill tailing standards with the objective of meeting the statutory deadline for promulgating NRC conforming regulations. The report should include a discussion of other changes the staff believes are needed to the regulations.

VIII. SHARPENING RELATED REGULATORY TOOLS

A. SAFETY GOALS

Policy

1. The Commission has developed preliminary safety goals and related safety guidance with emphasis on individual and societal risks which might arise from reactor accidents in order to have a general approach to the question of "how safe is safe enough?" A two-year evaluation period of the proposed safety goals began in 1983.

2. The preliminary safety goals and quantitative design objectives will not be used as the basis for making regulatory decisions during the two year trial period.

Planning Guidance

1. The staff will provide the Commission with periodic progress reports on the safety goal Evaluation Plan.

2. Applicants and licensee will not be required to perform probabilistic risk assessment for safety goal purposes during the evaluation period.

B. SEVERE ACCIDENTS

Policy

1. The Commission supports continued development of a severe accident policy. In order to bring about regulatory stability and timely application of severe accident research activities, the Commission supports early resolution of outstanding technical issues. Further, the Commission supports initiation of any necessary specific rulemaking proceedings or other regulatory changes to address severe accident considerations. This activity is to be directed to operating reactors as well as future standard plants.

Planning Guidance

1. The Commission should pursue the severe accident activities in close cooperation with similar industry activities such as the IDCOR program and similar foreign activities such as those in France and Germany.
2. An important and highly visible element in the NRC activities should be uncertainty analysis. Any conclusions drawn should reflect the impact of uncertainties.
3. Coordination between the ASTOP office developing the source terms, the PRA technology development effort and the safety goal study is imperative to ensure a consistent and rational resolution of severe accident issues.
4. The staff should make the closure of technical issues for severe accidents a high priority effort during 1984.
5. The Commission should complete and adopt a Policy Paper on Severe Accidents by July 1, 1984.

C. RISK ASSESSMENT

Policy

1. Where data permit probabilistic risk assessment is a useful tool for assessing the reliability of safety systems and for weighing risks against one another. Quantitative risk assessment techniques

will be used judiciously by the staff and the boards, to estimate relative risks.

2. The use of probabilistic risk assessment (PRA) methodology in regulatory decision-making must take into account the limitations of PRA. Consideration will be given to the uncertainties associated with the existing probabilistic risk assessment techniques whenever used in regulatory decisions.

Planning Guidance

1. Special attention should be given to using probabilistic assessment techniques in the evaluation period for safety goals, as directed by the Commission, and in other regulatory applications especially amenable to risk assessment, e.g., in dealing with generic safety issues, formulating new regulatory requirements, assessing and revalidating or eliminating existing regulatory requirements, evaluating new designs, and setting reactor research and inspection priorities.

2. When probabilistic risk assessment is used, there must be clear statements of the assumptions and models used in the analysis with a clear identification of the most significant assumptions and a systematic evaluation of the uncertainties. If this cannot be done in a particular case, then the PRA results should not be used in the decision-making process.

3. A report on the "state-of-the-art" of PRA methodology will be prepared in early 1984.

4. Special attention should be given to fostering the improvement of a coherent data base for use in risk assessments.

D. RADIOACTIVE SOURCE TERMS AND SITING POLICY

Policy

1. The Commission has decided to better define its safety objectives and better characterize radioactive source terms before proceeding with new siting regulations. Changes to current regulatory policies will be considered if the reassessment of the radioactive source terms so warrants.

Planning Guidance

1. The radioactive source terms should be better characterized by a systematic analysis of the release and transport of radioactivity.

A draft reassessment of radioactive source terms should be developed by December 1983 for selected regulatory analysis.

2. Based on new radioactive source terms and after completion of the two year evaluation of the safety goals, the need for a revised siting rule should be evaluated. Effects on other existing and proposed regulations (e.g., emergency preparedness) should also be evaluated when the new source terms have been validated through an effective peer review process.

E. RESEARCH

Policy

1. The purpose of the research program is to provide the technical basis for rulemaking and regulatory decisions; to support licensing and inspection activities; to assess the feasibility and effectiveness of safety improvements; and to increase our understanding of phenomena for which analytical methods are needed in regulatory activities.

2. There should be continued emphasis on using research results in the regulatory process and on obtaining results that are useful therein. Staff should not engage in research merely to postpone tackling difficult regulatory issues.

3. The highest priority for NRC research efforts will be light water reactor safety. Staff should be prepared to evaluate and explore the inherent safety characteristics of new reactor types.

4. The severe accident research program must be supportive of the Commission's decisionmaking process on severe accidents.

Planning Guidance

1. The research resources identified in NRC's budget should be allocated to support a balanced program between research to reinforce or revise the current regulatory base and conceptual research for improved reactor safety. The staff should be alert to research which shows that we ought to change our regulations. NRC regulations should be changed when research shows them to be either too stringent or not stringent enough.

2. Advanced reactor concepts shall be pursued consistent with programs adopted by the Executive Branch, the Congress or a focused private

sector effort alone or in combination with the government. Special emphasis should be given to the HTGR.

3. NRC will continue to maintain a long-range research plan which is consistent with the agency's mandate and directed toward areas of importance to the licensing and inspection processes. The research plan will be revised and updated annually and subjected to agency-wide review. Research undertaken by the staff will be consistent with the long-range research plan.

4. The staff should continue to provide to the Commission an annual report which lists regulations likely to be substantively modified or substantiated by the research programs. Target dates for review of these regulations and the completion of changes to them should be specified. The particular research programs that relate to each of these regulations should be identified. Any remaining research programs should be listed along with a brief explanation of their purpose. Resources allocated to the latter category should also be provided.

5. Joint or coordinated research programs with industry groups, other government agencies and foreign groups should be pursued when possible, both to expand the technical breadth provided to projects and to maximize the benefit to be derived from limited resources. Due consideration should be given to questions of conflict of interest when contemplating joint or coordinated research with industry.

6. The staff will: (1) conduct annual assessments, with input from appropriate user offices, of the progress and usefulness of specific research topics; (2) consider the marginal utility of additional research given the licensing status of plants; and (3) make greater use of Research Review Groups.

QUESTION 1. WHAT IS THE STATUS OF THE THREE MILE ISLAND RESTART PROCEEDING?

ANSWER.

THE RESTART PROCEEDING CAN BE GENERALLY DIVIDED INTO THREE CATEGORIES: (1) MANAGEMENT-RELATED ISSUES; (2) HARDWARE/DESIGN ISSUES AND THE SEPARATION OF UNITS 1 AND 2; AND (3) EMERGENCY PREPAREDNESS ISSUES. THE ADMINISTRATIVE PROCESS HAS BEEN COMPLETED ON ISSUES FALLING WITHIN THE LATTER TWO CATEGORIES. THE COMMISSION HAS DETERMINED THAT THOSE MATTERS HAVE BEEN SATISFACTORILY RESOLVED, SUBJECT TO RECEIPT OF NECESSARY NRC STAFF CERTIFICATION THAT VARIOUS CONDITIONS HAVE BEEN COMPLIED WITH.

THE APPEAL BOARD IN ALAB-772 ADDRESSED THE ADEQUACY OF MANAGEMENT. IT DETERMINED THAT THE RECORD NEEDED TO BE REOPENED ON THREE MANAGEMENT RELATED ISSUES -- THE ADEQUACY OF LICENSEE'S TRAINING PROGRAM, THE ACCURACY OF A MAILGRAM THAT GPU PRESIDENT HERMAN DIECKAMP SENT TO CONGRESSMAN UDALL ON MAY 9, 1979, AND ON ALLEGED LEAK RATE FALSIFICATION AT TMI-1. IN ALAB-738 THE APPEAL BOARD HAD PREVIOUSLY HELD THAT THE RECORD NEEDED TO BE REOPENED ON LEAK RATE FALSIFICATION AT TMI-2. THE COMMISSION TOOK REVIEW OF WHETHER THE RECORD SHOULD BE REOPENED ON THE FOUR ISSUES IDENTIFIED BY THE APPEAL BOARD. AS WELL AS ON SOME OTHER IDENTIFIED ISSUES.

QUESTION 1

ON JANUARY 25, 1985 THE COMMISSION ISSUED AN ORDER STATING THAT HEARINGS SHOULD BE COMPLETED ON THE ADEQUACY OF TRAINING AND THE DIECKAMP MAILGRAM, AND THAT HEARINGS SHOULD BE HELD OUTSIDE OF THE RESTART PROCEEDING ON THE TMI-2 LEAK RATE FALSIFICATIONS. THE COMMISSION HELD THAT HEARINGS WERE NOT REQUIRED ON TMI-1 LEAK RATE FALSIFICATIONS OR ANY OTHER ISSUES.

THE LICENSING BOARD HAS COMPLETED ITS HEARINGS ON THE TRAINING AND DIECKAMP MAILGRAM ISSUES. THE PARTIES HAVE FILED THEIR PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW WITH THE LICENSING BOARD AND THE BOARD IS NOW DRAFTING ITS OPINION.

THE COMMONWEALTH OF PENNSYLVANIA AND TMIA HAVE REQUESTED THE COMMISSION TO RECONSIDER ITS DECISION OF JANUARY 25, ARGUING THAT HEARINGS ON ADDITIONAL ISSUES ARE WARRANTED.

SEVERAL PARTIES HAVE ALSO REQUESTED THAT THE COMMISSION DISQUALIFY IVAN SMITH FROM CONTINUING TO PRESIDE OVER THE LICENSING BOARD PROCEEDING. THE COMMISSION, ON MARCH 26, 1985, BY UNANIMOUS VOTE DECIDED NOT TO DISQUALIFY JUDGE SMITH. THE COMMISSION WILL BE ISSUING AN ORDER EXPLAINING ITS DECISION. ADDITIONALLY, THE AAMODTS HAVE REQUESTED THE COMMISSION TO REOPEN THE RECORD ON HEALTH EFFECTS ARISING FROM THE TMI-2 ACCIDENT. THE COMMISSION HAS NOT YET RULED ON THESE MATTERS. IN A RELATED MATTER, THE DIRECTOR, NUCLEAR REACTOR REGULATION, ON JANUARY 15, 1985, DENIED A REQUEST TO INSTITUTE A PROCEEDING

QUESTION 1

TO REVOKE GPU NUCLEAR'S LICENSE TO OPERATE THE TMI AND OYSTER CREEK FACILITIES. THE COMMISSION HAS BEFORE IT WHETHER TO REVIEW THE DENIAL.

THE COMMISSION IS CURRENTLY CONSIDERING WHETHER TO LIFT THE IMMEDIATE EFFECTIVENESS OF THE ORDERS KEEPING TMI-1 SHUT DOWN BEFORE THE LICENSING BOARD ISSUES ITS DECISION ON TRAINING AND THE DIECKAMP MAILGRAM. THE COMMISSION HAS REQUESTED ANALYSES OF THOSE TWO ISSUES FROM ITS OFFICES OF GENERAL COUNSEL AND POLICY EVALUATION, AND A DRAFT ORDER REFLECTING THE RESULTS OF THEIR ANALYSES. THE ANALYSES HAVE BEEN PROVIDED. THE DRAFT ORDER IS BEING PREPARED. AFTER REVIEWING THAT MATERIAL, THE COMMISSION WILL DECIDE WHAT FURTHER ACTION IT SHOULD TAKE. ATTACHED FOR YOUR INFORMATION IS A MARCH 20, 1985 REPORT ON THE STATUS OF THE COMMISSION'S DELIBERATIONS (ATTACHMENT 1).*

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*Retained in committee files.

QUESTION 1

(A) PLEASE DETAIL ALL STEPS TAKEN BY THE COMMISSION, INCLUDING ALL FORMAL NRC PROCEEDINGS AND COMMISSION INVESTIGATIONS AND REPORTS, SINCE THE COMMISSION ISSUED ITS ORDER ON AUGUST 9, 1979.

ANSWER.

ASIDE FROM A REOPENING OF THE RECORD ON A TECHNICAL ISSUE BY THE APPEAL BOARD, THERE HAVE BEEN THREE FORMAL ADJUDICATORY HEARINGS SINCE THE COMMISSION ISSUED ITS ORDER ON AUGUST 9, 1979. THE FIRST, WHICH LED TO TWO LICENSING BOARD DECISIONS, ONE ON MANAGEMENT ISSUES AND ONE ON HARDWARE ISSUES, WAS HELD IN 1980-81. THE SECOND HEARING, HELD IN 1981, CONSIDERED THE CHEATING INCIDENTS WHICH CAME TO LIGHT AFTER THE ORIGINAL EVIDENTIARY HEARING CLOSED. THE THIRD HEARING WAS HELD IN DECEMBER, 1984 AND JANUARY, 1985, AND CONSIDERED LICENSEE'S TRAINING PROGRAM AND THE DIECKAMP MAILGRAM.

THE COMMISSION HAS ISSUED APPROXIMATELY 50 ORDERS OR NOTICES IN THIS PROCEEDING. THEY ARE LISTED IN ATTACHMENT 2,* ALONG WITH OTHER SIGNIFICANT ORDERS. THE COMMISSION HAS ALSO HEARD ORAL PRESENTATIONS FROM THE PARTIES ON OCTOBER 14, 1981 (ON THE LICENSING BOARD'S FIRST DECISION), ON

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*Retained in committee files.

QUESTION 1

NOVEMBER 9, 1982 (ON THE LICENSING BOARD'S SECOND AND THIRD DECISIONS), ON NOVEMBER 28, 1983 (FROM LICENSEE ON A MANAGEMENT ORGANIZATION PROPOSAL), ON DECEMBER 5, 1983 (FROM OTHER PARTIES ON LICENSEE'S PROPOSAL), AND ON AUGUST 15, 1984 (ON THE IMPACT OF THE APPEAL BOARD'S DECISION TO REOPEN). THE COMMISSION ALSO HELD AN EVENING SESSION IN HARRISBURG ON NOVEMBER 9, 1982, WHERE IT HEARD FROM MEMBERS OF THE PUBLIC REGARDING THE RESTART OF TMI-1.

THERE HAVE BEEN NUMEROUS INVESTIGATIONS BEARING ON ISSUES IN THE RESTART PROCEEDING. THE COMMISSION OR THE APPEAL BOARD HAS ADDRESSED THOSE INVESTIGATIVE REPORTS WARRANTING CONSIDERATION, AND CONCLUDED THAT NONE WARRANT FURTHER HEARINGS. RELEVANT INVESTIGATIVE INQUIRIES AND REPORTS INCLUDE THE FOLLOWING:

Q - 1-83-006 (MARCH 15, 1983) (REPORT OF INTERVIEW OF L. KING)

Q - 1-83-010 (MAY 2, 1983) (ALLEGED DRUG ABUSE)

Q - 1-83-014 (MAY 31, 1983) (POTENTIAL FALSIFICATION OF TRAINING RECORDS)

Q - 1-84-031 (DEC. 21, 1984) (GENERAL MANAGEMENT ALLEGATIONS)

QUESTION 1

Q - 1-84-032 (Nov. 29, 1984) (POTENTIAL COMPROMISE OF SECURITY EXAMS)

Q - 1-84-036 (MARCH 1985) (ALLEGED 1980 SECURITY MATTER)

Q - 1-85-006 (NEARLY CLOSED) (VENDOR ALLEGATIONS)

Q - 1-84-004 (MARCH 22, 1984) (ALLEGED TRAINING IRREGULARITIES)

Q - 1-84-006 (MAY 18, 1984) (CHANGES TO LUCIEN REPORT)

Q - 1-83-016 (JULY 1, 1983) (ALLEGATIONS CONCERNING FIRE PROTECTION TRAINING DEFICIENCIES)

1-83-028 (APRIL 16, 1984) (TMI-1 LEAK RATE PRACTICES)

1-83-028, SUPP. (APRIL 16, 1984) (TMI-1 LEAK RATE PRACTICES)

1-83-010 (AUGUST 15, 1984) (TMI-2 FALSIFICATIONS)

1-83-013 (APRIL 16, 1984) (REPORTING OF BETA AND RHR REPORTS)

QUESTION 1

1-83-012 (May 18, 1984) (Keaten report changes)

1-84-005 (July 13, 1984) (change of testimony in GPU v. B&W trial)

1-83-003 (March 7, 1983 and Supp. October 12, 1983) (alleged compromise of pre-employment examination)

1-83-004 (February 28, 1983) (circumstances surrounding management decision not to report allegation regarding alleged testing improprieties)

1-83-015 (July 13, 1984) (alleged falsification of TMI-2 radiation monitoring report)

1-82-066 (June 10, 1983) (alleged unqualified welders)

H-82-002 (March 21, 1983) (certification of Floyd)

H-83-002 (September 1, 1983) (TMI-2 procedural violations)

H-83-002 (May 18, 1984) (Parks/King/Gischel discrimination)

Investigative Evaluation of Remaining Allegations Relating to Harold Hartman (January 22, 1984)

QUESTION 1

(B) IDENTIFY ALL ISSUES THAT HAVE BEEN RAISED BY (I) THE STAFF, AND (II) OUTSIDE PARTIES, EITHER IN FORMAL PROCEEDINGS OR OTHERWISE, REGARDING THE RESTART OF TMI-1.

ANSWER:

AS NOTED PREVIOUSLY, THE ISSUES FALLING WITHIN THE RESTART PROCEEDING CAN BE BROKEN DOWN INTO THREE BASIC CATEGORIES: (1) MANAGEMENT-RELATED ISSUES; (2) HARDWARE DESIGN ISSUES AND THE SEPARATION OF UNITS 1 AND 2; AND (3) EMERGENCY PREPAREDNESS ISSUES. WITH REGARD TO THE MANAGEMENT ISSUES, THE COMMISSION ON JANUARY 20, 1984 PROVIDED THE PARTIES WITH A LIST OF INTEGRITY ISSUES FOR COMMENT. THAT LIST REPRESENTED A COMPILATION OF ISSUES HAVING AS THEIR BASES "FACTS OR DISPUTES ABOUT FACTS RAISED DURING THE RESTART PROCEEDING OR THEREAFTER WHICH AT FACE VALUE APPEAR TO HAVE SOME POSSIBLE CONNECTION WITH MANAGEMENT INTEGRITY." A COPY OF THAT LIST IS ATTACHMENT 3.* ISSUES RELATED TO MANAGEMENT COMPETENCE WHICH WERE ADDRESSED BY THE LICENSING BOARD INCLUDE LICENSEE'S MANAGEMENT STRUCTURE, CORPORATE ORGANIZATION, TECHNICAL RESOURCES, PERSONNEL, TRAINING, MAINTENANCE RECORDS, USE OF OVERTIME, HEALTH PHYSICS, FINANCIAL/TECHNICAL INTERFACE, SAFETY REVIEWS AND OPERATIONAL ADVICE, MANAGEMENT RESPONSE TO THE ACCIDENT, AND

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*Retained in committee files.

QUESTION 1

TECHNICAL CAPABILITY AND RESOURCES. THESE ISSUES ARE ALL DISCUSSED BY THE LICENSING BOARD DECISION, REPORTED AT 14 N.R.C. 381. THE COMMISSION DISCUSSED MOST OF THE NEW ISSUES (AS SET OUT IN THE LIST OF INTEGRITY ISSUES) IN ITS ORDER OF JANUARY 25, 1985, WHICH HELD THAT NO ADDITIONAL HEARINGS IN THE RESTART PROCEEDING ARE WARRANTED.

THE HARDWARE ISSUES INCLUDED A DIVERSITY OF MATTERS HAVING A NEXUS TO THE TMI-2 ACCIDENT. THEY HAVE ALL BEEN ADDRESSED ON THEIR MERITS IN THE FORMAL ADJUDICATION. THE RANGE OF ISSUES ADDRESSED BY THE LICENSING BOARD (REPORTED AT 14 N.R.C. 1211) INCLUDED LICENSEE'S METHOD FOR DETECTION OF INADEQUATE CORE COOLING, THE ADEQUACY OF NATURAL AND FORCED CIRCULATION, THE ADEQUACY OF PRESSURIZED HEATERS, WHETHER THE PRESSURE OPERATED RELIEF VALVE NEEDED TO BE SAFETY GRADE, CONTAINMENT ISOLATION, SYSTEMS CLASSIFICATIONS AND INTERACTIONS, THE RELIABILITY OF THE EMERGENCY FEEDWATER SYSTEM, AND EQUIPMENT QUALIFICATION. THE LICENSING BOARD FOUND THAT ALL OF THESE ISSUES HAD BEEN ADEQUATELY ADDRESSED. THE APPEAL BOARD, WITH SOME MODIFICATIONS, ALSO FOUND THE HARDWARE SYSTEMS ADEQUATE TO SUPPORT RESTART. 17 N.R.C. 814. THE COMMISSION TOOK REVIEW OF FIVE ISSUES IN THE APPEAL BOARD'S DECISION, AND CONCLUDED THAT FOUR OF THEM COULD BE RESOLVED ON THEIR MERITS. THE COMMISSION ON THE FIFTH ISSUE, CONCERNING ENVIRONMENTAL QUALIFICATION OF ELECTRICAL EQUIPMENT,,DIRECTED THE STAFF TO CERTIFY THE

QUESTION 1

STATUS OF THAT QUALIFICATION. 20 N.R.C. 1. STAFF HAS NOT YET CERTIFIED THAT ISSUE.

IN THE RELATED AREA OF SEPARATION OF TMI-1 AND TMI-2, THE LICENSING BOARD CONSIDERED WHETHER THE UNITS WERE SUFFICIENTLY SEPARATED THAT THE STATUS OF TMI-2 WOULD NOT IMPACT ON THE OPERATION OF TMI-1. THIS CONSIDERATION INCLUDED EFFLUENT MONITORING AND GROUNDWATER MONITORING. NO PARTY APPEALED FROM THE LICENSING BOARD'S DECISION ON THIS MATTER.

THE EMERGENCY PREPAREDNESS ISSUES IN THIS PROCEEDING ALSO COVERED A WIDE SPECTRUM. THEY INCLUDED THE ORGANIZATION AND STAFFING OF THE EMERGENCY RESPONSE ORGANIZATIONS, ACCIDENT ASSESSMENT AND DOSE PROJECTION, INITIAL NOTIFICATION OF GOVERNMENTAL UNITS, PUBLIC EDUCATION, WARNING AND EMERGENCY INSTRUCTIONS, DEFINITION OF EMERGENCY PLANNING ZONES, PROTECTIVE ACTION DECISION-MAKING, IMPLEMENTATION OF PROTECTIVE ACTIONS, MAINTAINING EMERGENCY PREPAREDNESS, AND FUNDING FOR EMERGENCY RESPONSE. THE LICENSING (14 N.R.C. 1211) AND APPEAL BOARDS (16 N.R.C. 1265, 1290) AFTER REVIEW AND WITH THE IMPOSITION OF CERTAIN CONDITIONS FOUND THE EMERGENCY PLANS ADEQUATE. THE COMMISSION ON REVIEWING THOSE DECISIONS REINSTATED A CONDITION REGARDING STAFFING OF THE EMERGENCY OFFSITE FACILITY IMPOSED BY THE LICENSING BOARD,

QUESTION 1

AND CONCLUDED THAT EMERGENCY PLANNING FOR TMI-1 IS ADEQUATE. 18 N.R.C. 299.

ISSUES RELATED TO THE RESTART OF TMI-1 WHICH FALL OUTSIDE THE FORMAL TMI-1 RESTART PROCEEDING INCLUDE NUMEROUS HARDWARE ISSUES, INCLUDING QUESTIONS ABOUT THE STEAM GENERATORS. THE STEAM GENERATOR QUESTION HAS BEEN ADDRESSED BY THE LICENSING BOARD, WHICH AUTHORIZED ISSUANCE OF THE AMENDMENT FOR THE STEAM GENERATOR REPAIRS. 20 N.R.C. 1405. HARDWARE ISSUES INCLUDE POSSIBLE CRACKING IN SOME HIGH-PRESSURE NOZZLES OR THEIR THERMAL SLEEVES, POSSIBLE DISTORTION OF AUXILIARY FEEDWATER SPARGERS, AND SEISMIC CAPABILITY.

QUESTION 1

(c) WHAT IS THE STATUS OF EACH SUCH ISSUE? WHAT ISSUES REMAIN TO BE RESOLVED? WHAT BEARING DO THESE ISSUES HAVE ON THE COMMISSION'S DECISION TO AUTHORIZE RESTART OF THE REACTOR?

ANSWER:

THE ONLY UNRESOLVED ISSUES CONSIDERED WITHIN THE RESTART PROCEEDING ARE THE ADEQUACY OF LICENSEE'S LICENSED OPERATOR TRAINING PROGRAM, THE ACCURACY OF THE DIECKAMP MAILGRAM, AND SEVERAL ITEMS WHICH STAFF MUST CERTIFY HAVE BEEN COMPLETED BEFORE THE PLANT CAN BE RESTARTED. WE ARE ATTACHING A COPY OF SECY-85-64, WHICH DISCUSSES THE STATUS OF CERTIFICATION AS OF FEBRUARY 25, 1985.* THAT LIST DOES NOT INCLUDE THE TWO CONDITIONS IMPOSED BY THE COMMISSION IN ITS DECISION THAT NO FURTHER HEARINGS ARE REQUIRED -- ONE REQUIRING LICENSEE TO MAINTAIN ITS EXPANDED BOARD OF DIRECTORS, AND THE OTHER PROHIBITING LICENSEE FROM USING CERTAIN PERSONNEL IN OPERATIONAL OR RESPONSIBLE MANAGEMENT POSITIONS. STAFF WILL REVIEW THOSE CONDITIONS AND REPORT ON WHETHER THEY HAVE BEEN COMPLIED WITH. ALL OTHER ISSUES CONSIDERED WITHIN THE RESTART PROCEEDING HAVE BEEN RESOLVED, AND, ACCORDINGLY, HAVE NO BEARING ON THE DECISION WHETHER TO AUTHORIZE RESTART. THE STAFF OUTSIDE THE PROCEEDING WILL REVIEW THE IMPACT OF LICENSEE'S DECISION TO PLUG ADDITIONAL TUBES IN THE STEAM GENERATOR.

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*Retained in committee files.

QUESTION 1

(D) WHAT PROCEEDINGS, REVIEWS, OR INVESTIGATIONS, FORMAL OR OTHERWISE, ARE STILL PENDING BEFORE THE COMMISSION?

ANSWER:

THIS QUESTION IS FOR THE MOST PART ANSWERED IN THE ABOVE RESPONSES. IN ADDITION, THERE ARE THREE ONGOING INVESTIGATIONS WHICH RELATE TO TMI. THESE ARE TWO INVESTIGATIONS INTO POSSIBLE FALSE STATEMENTS, ONE IN CONNECTION WITH THE POLAR CRANE REFURBISHMENT AT TMI-2, AND ONE RELATED TO ENVIRONMENTAL QUALIFICATION AT TMI-1. THE THIRD INVESTIGATION INVOLVES INDIVIDUALS AT TMI-2 POSSIBLY INVOLVED IN TMI-2 LEAK RATE FALSIFICATIONS.

QUESTION 1

(E) WHAT STEPS REMAIN TO BE TAKEN BEFORE A DECISION IS REACHED ON RESTART?

ANSWER:

THIS QUESTION IS ADDRESSED IN RESPONSE TO THE FIRST SUBPART OF THIS QUESTION.

QUESTION 1

(F) WHY HAS THIS PROCEEDING GONE ON FOR 5½ YEARS? WHAT STEPS HAS THE COMMISSION TAKEN TO REACH A TIMELY DECISION IN THIS MATTER?

ANSWER:

WE ARE ATTACHING A CHRONOLOGY PREPARED BY OUR OFFICE OF POLICY EVALUATION WHICH ILLUSTRATES THE COMPLEXITY OF THIS CASE (ATTACHMENT 4).* THE COMMISSION HAS DEVOTED SUBSTANTIAL TIME AND RESOURCES TO THIS PROCEEDING, BUT NEW DEVELOPMENTS WHICH HAVE PREVENTED A DECISION HAVE CONTINUALLY ARISEN. THE COMMISSION INTENDS TO CONTINUE TO GIVE THIS PROCEEDING THE ATTENTION NECESSARY TO CONCLUDE IT IN AS TIMELY A MANNER AS POSSIBLE.

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*Retained in committee files.

QUESTION 1

(G) WHAT IS THE LEGAL STANDARD THAT MUST BE SATISFIED IN THIS PROCEEDING IN ORDER TO REACH A DECISION?

ANSWER:

THE COMMISSION EXPLAINED THE STANDARD FOR REACHING A DECISION IN THIS CASE IN AN EARLIER ORDER: "[A] DECISION BY THE COMMISSION ... WOULD BE DETERMINING ... WHETHER THE CONCERNS WHICH PROMPTED ITS ORIGINAL IMMEDIATE SUSPENSION ORDER ... JUSTIFY A CONTINUATION OF THAT SUSPENSION. IF THEY DO NOT, AND THE COMMISSION THEREFORE CAN NO LONGER FIND THAT THE 'PUBLIC-HEALTH, SAFETY AND INTERESTS' MANDATES THE SUSPENSION, THEN THE COMMISSION IS REQUIRED BY LAW ... TO LIFT THAT SUSPENSION IMMEDIATELY. THIS IS A MATTER PECULIARLY WITHIN THE COMMISSION'S KNOWLEDGE AND INVOLVING THE MOST DISCRETIONARY ASPECTS OF ITS ENFORCEMENT AUTHORITY." 14 N.R.C. AT 1098.

QUESTION 2. WHAT IS THE STATUS OF SHOREHAM PROCEEDING. IDENTIFY ALL ISSUES STILL PENDING BEFORE THE COMMISSION, THE COMMISSION STAFF, THE APPEAL PANEL, AND THE LICENSING BOARDS THAT REMAIN TO BE RESOLVED. AS I UNDERSTAND IT, A RECENT DECISION OF THE APPEAL PANEL ORDERED THE CASE REMANDED TO THE LICENSING BOARD FOR FURTHER PROCEEDINGS ON THE SECURITY OF THE DIESEL GENERATORS. HADN'T THE COMMISSION ITSELF JUST COMPLETED AN "IMMEDIATE EFFECTIVENESS REVIEW" ON WHETHER A LOW-POWER LICENSE COULD BE ISSUED, AND RENDERED A FAVORABLE DECISION? WAS THE SECURITY ISSUE ADDRESSED BY THE COMMISSION? WAS IT RAISED BY ANY OF THE PARTIES? IF SO, WHAT ADDITIONAL REVIEW, INCLUDING REVIEW BY THE APPEAL PANEL OR LICENSING BOARDS, IS NECESSARY? IF NOT, WHAT IS THE PURPOSE OF AN "IMMEDIATE EFFECTIVENESS REVIEW" IN WHICH A DECISION IS RENDERED ON ONLY A LIMITED RANGE OF ISSUES? DOES THIS OUTCOME SUGGEST A NEED TO REEXAMINE THE WAY THE COMMISSION CONDUCTS "IMMEDIATE EFFECTIVENESS REVIEWS", AND THE WEIGHT TO BE ACCORDED SUCH REVIEWS?

ANSWER.

CURRENTLY, THE ONLY ISSUES REMAINING TO BE RESOLVED BY THE NRC REGULATORY STAFF THAT ARE NOT BEFORE SHOREHAM LICENSING BOARDS RELATE TO OPERATION ABOVE 5% POWER. THEY INVOLVE: COMPLIANCE WITH 10 CFR APPENDIX R (FIRE PROTECTION); COMPLIANCE WITH NRC ENVIRONMENTAL QUALIFICATION REQUIREMENTS; COMPLIANCE WITH NRC SEISMIC QUALIFICATION REQUIREMENTS FOR THE SHOREHAM RADIATION MONITORING SYSTEM PANELS AND PUMPS; CONFIRMATION THAT CERTAIN VALVES (FOR THE HIGH PRESSURE INJECTION SYSTEM, THE REACTOR COOLANT INJECTION SYSTEM AND THE REACTOR WATER CLEANUP SYSTEM) CAN ISOLATE BREAKS UNDER BLOWDOWN CONDITIONS; REPLACEMENT OF HIGH PRESSURE INJECTION SYSTEM BREAK DETECTION LOGIC TIMERS; PROPER ENUNCIATION OF DISEL GENERATOR TRIPPING RELAYS; EVALUATION AND CORRECTION OF CAUSES FOR FAILURE TO TRIP OF BREAKER 108-2; DOCUMENTATION OF INDEPENDENT DESIGN REVIEW CALCULATIONS.

THERE ARE CURRENTLY THREE LICENSING BOARDS CONDUCTING PROCEEDINGS ON SHOREHAM. THE OPERATING LICENSE (OL) BOARD, HAVING EARLIER CONCLUDED THAT ALL OTHER ISSUES WERE SATISFACTORILY RESOLVED FOR LOW-POWER OPERATION, IS CONSIDERING THE ADEQUACY OF THE SHOREHAM PRIMARY ONSITE EMERGENCY POWER SYSTEM. THAT BOARD HAS ALSO CONCLUDED THAT ALL CONTESTED ISSUES OTHER THAN THE ONSITE POWER ISSUE (AND THE EMERGENCY PREPAREDNESS ISSUES BEFORE ANOTHER BOARD) HAVE BEEN RESOLVED FOR FULL-POWER OPERATION. ANOTHER BOARD--THE "LOW-POWER" BOARD--IS CONSIDERING WHETHER SHOREHAM CAN ENGAGE IN LOW-POWER

TESTING (UP TO 5% OF RATED POWER) PENDING A FINDING BY THE OL BOARD THAT THE PRIMARY ONSITE POWER SUPPLY IS ADEQUATE. A THIRD BOARD IS EVALUATING THE ADEQUACY OF SHOREHAM EMERGENCY PREPAREDNESS. WE NOW ADDRESS THESE PROCEEDINGS IN MORE DETAIL.

AS NOTED, THE OL BOARD CONCLUDED (IN AN EXTENSIVE DECISION OF SEPTEMBER 1983) THAT, UPON RESOLUTION OF THE ONSITE EMERGENCY POWER ISSUES, SHOREHAM LOW-POWER OPERATION COULD BE AUTHORIZED. THE APPEAL BOARD IN ALAB-788 REVIEWED THE SEPTEMBER 1983 DECISION, IN LARGE PART UPHOLDING THE OL BOARD, AND THE COMMISSION IS CURRENTLY CONSIDERING WHETHER TO GRANT A SUFFOLK COUNTY PETITION FOR REVIEW OF ALAB-788. SUFFOLK'S REQUEST FOCUSES ON THE BOARDS' DECISIONS ON LILCO'S QUALITY ASSURANCE PROGRAM. THE OL BOARD IS NOW CONDUCTING A HEARING ON THE ADEQUACY OF THE PRIMARY ONSITE AC SYSTEM, AND A DECISION ON THAT ISSUE IS EXPECTED IN MAY 1985.

SUBSEQUENT TO THE OL BOARD DETERMINATION THAT THE SHOREHAM ONSITE AC SYSTEM WAS INADEQUATE, LILCO INSTALLED AN ALTERNATE AC SYSTEM AT THE SITE. IN VIEW OF QUESTIONS ABOUT THE ABILITY OF THAT SYSTEM TO COMPLY WITH ALL COMMISSION REQUIREMENTS FOR ONSITE AC SYSTEMS, LILCO REQUESTED AN EXEMPTION FROM THOSE REQUIREMENTS. IN MAY 1984, THE COMMISSION DECIDED TO CONDUCT AN IMMEDIATE EFFECTIVENESS REVIEW OF ANY DECISION AUTHORIZING THE GRANT OF AN EXEMPTION. IN SEPTEMBER 1984, THE LICENSING BOARD AUTHORIZED PHASES I AND II OF LOW-POWER TESTING (FUEL LOADING AND COLD-CRITICAL TESTING), AND LATER THAT MONTH THE BOARD DISMISSED

ALL PHYSICAL SECURITY CONTENTIONS. IN AN OCTOBER 1984 DECISION, THE LOW-POWER BOARD AUTHORIZED THE GRANT OF AN EXEMPTION FOR PHASES III AND IV OF LOW-POWER TESTING (HEATUP AND TESTING TO 5% OF RATED POWER), AND OF A LICENSE FOR PHASES III AND IV. IN CLI-85-1, THE COMMISSION MADE EFFECTIVE THE LOW-POWER BOARD DECISION. THE COMMISSION DID NOT DECIDE ALL PHYSICAL SECURITY ISSUES ON THEIR MERITS, ALTHOUGH THE PARTIES HAD EXTENSIVELY BRIEFED AND ARGUED THEM.

ALAB-800 WAS THE APPEAL BOARD'S MERITS REVIEW OF THE LOW-POWER BOARD'S EXEMPTION AND PHYSICAL SECURITY DECISIONS. THE APPEAL BOARD DEFERRED TO THE COMMISSION ON MOST ASPECTS OF THE LOW-POWER BOARD'S EXEMPTION DECISION. HOWEVER, THE APPEAL BOARD DECIDED THAT IT WAS NECESSARY TO VACATE THE AUTHORIZATION FOR THE PHASES III AND IV LICENSE BECAUSE, ON THE MERITS, THE BOARD'S PHYSICAL SECURITY DECISION WAS DEFECTIVE. THE APPEAL BOARD ACCORDINGLY REMANDED TO THE LOW-POWER BOARD ON PHYSICAL SECURITY, AND THAT REMAND IS NOW ONGOING.

THE PRIMARY QUESTION ON REMAND IS THE PROPER DEFINITION AND APPLICATION, TO THE SHOREHAM EMERGENCY AC SYSTEM, OF THE REGULATORY TERM "VITAL EQUIPMENT." SUFFOLK COUNTY, NEW YORK STATE, AND LILCO HAVE ASKED THE COMMISSION TO REVIEW AND

REVERSE VARIOUS ASPECTS OF ALAB-800, AND THE COMMISSION IS CURRENTLY CONSIDERING THOSE REQUESTS.

THE THIRD LICENSING BOARD IS CONSIDERING THE ADEQUACY OF SHOREHAM EMERGENCY PLANNING, AND A DECISION IS EXPECTED IN APRIL 1985. THE BOARD'S CURRENT CONSIDERATIONS INCLUDE: WHETHER LILCO HAS THE LEGAL AUTHORITY TO IMPLEMENT ITS EMERGENCY PLAN; WHETHER TO REOPEN THE RECORD ON THE ADEQUACY OF HEALTH CARE FACILITIES TO TREAT RADIOLOGICALLY CONTAMINATED INDIVIDUALS; AND THE DESIGNATION OF A RELOCATION CENTER. ANY LICENSING BOARD DECISION WILL BE SUBJECT TO COMMISSION IMMEDIATE EFFECTIVENESS REVIEW, APPEAL BOARD MERITS REVIEW, AND POSSIBLY TO COMMISSION DISCRETIONARY MERITS REVIEW.

THERE IS ALSO PENDING BEFORE THE COMMISSION A RENEWED REQUEST BY SUFFOLK AND THE STATE FOR A SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT WEIGHING THE COSTS AND BENEFITS OF LOW-POWER OPERATION ASSUMING THAT THERE WILL NEVER BE FULL-POWER OPERATION.

THE ABOVE IS A BRIEF SUMMARY OF THE STATUS OF THE SHOREHAM PROCEEDING. YOU ALSO REQUESTED OUR VIEWS ON THE COMMISSION'S IMMEDIATE EFFECTIVENESS PROCESS IN LIGHT OF THE SHOREHAM CASE. IMMEDIATE EFFECTIVENESS REVIEWS ARE MUCH LIKE "STAY REVIEWS." AS SUCH, THE COMMISSION GENERALLY DOES NOT FOCUS ON OR TO THE SAME DEGREE AS IS THE CASE WITH THE MERITS ISSUE REVIEWS. AS YOU SUGGEST, THERE MAY BE A NEED TO EXAMINE THE COMMISSION'S IMMEDIATE EFFECTIVENESS PROCEDURES, AND THE COMMISSION IS NOW CONSIDERING POSSIBLE PROPOSALS ON THE SUBJECT.

QUESTION 3. THE COMMISSION HAS NOW RECEIVED THE RESULTS OF THE AMERICAN PHYSICAL SOCIETY'S PEER REVIEW OF THE SOURCE TERM RESEARCH. WHAT IS YOUR UNDERSTANDING OF THE APS CONCLUSIONS? HOW DO THESE CONCLUSIONS COMPARE TO THE RESULTS OF THE AMERICAN NUCLEAR SOCIETY AND "IDCOR" REVIEWS? IN ADDITION, WHAT IS THE NEXT STEP IN OUR EFFORT TO GAIN A BETTER UNDERSTANDING OF THE POTENTIAL RADIOACTIVE RELEASE IN THE EVENT OF AN ACCIDENT, AND WHAT IMPACT DO YOU THINK THE APS REPORT WILL HAVE ON THE LEVEL OF RESEARCH FUNDING REQUIRED TO ADDRESS THE REMAINING UNCERTAINTIES?

ANSWER.

THE APS REPORT CONCLUDED THAT THE NEW SOURCE TERM CALCULATIONS INDICATE THAT FOR MANY OF THE WAYS IN WHICH A SEVERE NUCLEAR REACTOR ACCIDENT MIGHT OCCUR, THE QUANTITY OF RADIONUCLIDES THAT WOULD REACH THE ENVIRONMENT IS MUCH LOWER THAN THAT PREDICTED 10 YEARS AGO IN THE REACTOR SAFETY STUDY (RSS). THEY NOTE, HOWEVER, THAT FOR SOME SEQUENCES, ONE MECHANISM, THE RELEASE OF NON-VOLATILE RADIONUCLIDES IN THE CORE-CONCRETE INTERACTION, MIGHT INCREASE THE RADIONUCLIDE RELEASE ABOVE THOSE CALCULATED IN THE RSS. BECAUSE OF THIS

CONCERN AND SEVERAL OTHERS, THEY NOTED THAT IT WAS IMPOSSIBLE TO MAKE A SWEEPING GENERALIZATION ABOUT THE LOWERING OF THE SOURCE TERM ESTIMATES.

THE OVERALL CONCLUSIONS OF THE AMERICAN NUCLEAR SOCIETY (ANS) REVIEW WERE SIMILAR TO THOSE OF THE APS WITH TWO IMPORTANT EXCEPTIONS. FIRST, WHEREAS THE ANS QUOTED A RANGE OF SOURCE TERM REDUCTION FACTORS THAT WOULD APPLY TO MOST SEQUENCES, THE APS FELT THEY COULD NOT ARRIVE AT SUCH FACTORS AT THIS TIME, AND HENCE, DID NOT INCLUDE SUCH FACTORS IN THEIR CONCLUSIONS. SECOND, THE ANS REVIEW DID NOT EXPLORE THE DETAILS OF THEIR "FOR MOST SEQUENCES" QUALIFIER. HOWEVER, THE APS REVIEW DISCUSSED IN CONSIDERABLE DETAIL THE TECHNICAL REASONS FOR THEIR QUALIFYING CONCERNS, TOGETHER WITH AN IDENTIFICATION OF THE RESEARCH INFORMATION NEEDED TO ADDRESS AND RESOLVE THESE CONCERNS. THE CONCLUSIONS OF THE IDCOR STUDY POSTULATES ACROSS-THE-BOARD REDUCTIONS IN SOURCE TERMS WITHOUT QUALIFICATION FOR THE REFERENCE PLANTS STUDIED. THE IDCOR CONCLUSIONS DO NOT REFLECT THE MAJOR TECHNICAL CONCERNS NOTED BY THE APS REVIEW BECAUSE THE ASSUMPTIONS USED IN THE IDCOR ANALYSIS HAVE BEEN CHALLENGED BY NRC CONTRACTORS WHOSE ANALYSIS AND USE OF NEW DATA HAVE GONE FURTHER THAN IDCOR.

THE NEXT STEP IN OUR EFFORT TO GAIN A BETTER UNDERSTANDING OF THE POTENTIAL RADIOACTIVE RELEASE IN THE EVENT OF AN ACCIDENT WILL BE THE REDUCTION IN THE REMAINING AREAS OF UNCERTAINTY IN MODELING KEY ACCIDENT PHENOMENA BY THE USE OF ADDITIONAL DATA FROM EXPERIMENTS NOW IN PROGRESS AND COMPLETION OF THE VALIDATION OF THE SOURCE TERM METHODOLOGY, AS RECOMMENDED BY THE APS.

THE CURRENT LEVEL OF FUNDING IN FY 85 AND THE LEVEL PROPOSED FOR FY 86 IS IN ABOUT THE RIGHT RANGE TO CARRY OUT THE RESEARCH PROGRAM NOW IN PLACE AND THE RESEARCH PLANNED TO ADDRESS THE REMAINING SOURCE TERM UNCERTAINTIES; HOWEVER THIS IS STILL BEING EVALUATED. IT IS NOT EXPECTED THAT LARGE INCREASES IN FUNDING WILL BE REQUIRED. SOME STRETCH OUT OF THE PROGRAM MAY BE NECESSARY. ANY FURTHER REDUCTION IN THE PROPOSED FY 86 FUNDING LEVEL WILL NOT PERMIT US TO ADDRESS THE REMAINING UNCERTAINTIES NOTED IN THE APS REPORT.

IN FY 87 A SMALL INCREASE (ABOUT 10%) OVER THE FY 86 LEVEL WILL BE NEEDED TO ACCOMPLISH THESE SOURCE TERM RESEARCH OBJECTIVES.

QUESTION 4. THE APS STUDY EMPHASIZES CERTAIN AREAS OF UNCERTAINTY (E.G., THE INTERACTION OF MOLTEN CORE AND CONCRETE) ON SOURCE TERM CALCULATIONAL METHODOLOGIES. DID APS GO THE NEXT STEP TO CONSIDER THE IMPACT OF THESE UNCERTAINTIES ON PUBLIC RISK? I UNDERSTAND THAT INDUSTRY-SPONSORED STUDIES ADDRESSED THE PUBLIC RISK FOR THIS SCENARIO AND HAVE CONCLUDED: (1) IT IS A VERY IMPROBABLE SCENARIO AND (2) THE POTENTIAL SCENARIO WOULD OCCUR VERY LATE IN AN ACCIDENT SEQUENCE WITH LITTLE, IF ANY, PUBLIC CONSEQUENCES. PLEASE COMMENT.

ANSWER.

APS DID NOT GO SO FAR AS TO CONSIDER THE IMPACT OF THE UNCERTAINTIES ON PUBLIC RISK. THEY WERE ASKED TO TAKE A HARD LOOK AT THE FUNDAMENTAL SCIENCE BASE THAT NRC HAD DEVELOPED TO EVALUATE SOURCE TERMS. PUBLIC RISK INVOLVES THE PROBABILITY OF THE EVENT OCCURRING COMBINED WITH THE ESTIMATED CONSEQUENCES OF THE EVENT. PROF. WILSON, CHAIRMAN OF THE APS STUDY GROUP, SPECIFICALLY SAID "WE DID NOT LOOK AT THOSE PROBABILITIES EXCEPT INSOFAR AS WE ASKED, HAS THE SELECTION OF SEQUENCES FOR STUDY CHOSEN BY THE NRC STAFF AND

CONTRACTORS, WAS THAT A SENSIBLE CHOICE. AND WE FELT ON THE WHOLE IT WAS A SENSIBLE CHOICE." WHAT APS DID INDICATE AS AN AREA OF POTENTIAL PROBLEMS WERE THE CORE-CONCRETE INTERACTIONS AND THE BEHAVIOR OF FISSION PRODUCTS. HOW MUCH EMPHASIS IS PLACED ON THESE EVENTS BY THE REGULATORY STAFF BECOMES A JUDGMENT THAT REQUIRES A LOOK AT THE QUESTION OF ACCIDENT SEQUENCE AND CONTAINMENT FAILURE PROBABILITIES. IF A REGULATORY DECISION WERE TO BE MADE TO ASSUME AN ACCIDENT HAPPENS REGARDLESS, THEN THERE WOULD BE A NEED FOR MORE COMPLETE UNDERSTANDING OF THESE PHENOMENA. HOWEVER, NRC FEELS A RESPONSIBILITY TO CONSIDER IN EACH CASE THE PROBABILITIES OF AN ACCIDENT SEQUENCE COMBINED WITH CONTAINMENT FAILURE. THE NEED TO DO A RESEARCH PROGRAM TO EVALUATE THE BEHAVIOR IN THAT SEQUENCE SHOULD BE IN PROPORTION TO THE PROBABILITY OF THE SEQUENCE. APS WAS NOT CHARGED WITH THE RESPONSIBILITY TO CONSIDER THESE PROBABILITIES.

NRC SPONSORED PROBABILITY ANALYSES HAVE REVEALED THAT IN SOME CASES THESE UNLIKELY EVENTS CAN RESULT IN SUFFICIENTLY SEVERE CONSEQUENCES SUCH THAT PUBLIC RISK COULD BE HIGH. IN CERTAIN CASES OF LOW PROBABILITY SCENARIOS IN BWR'S THERE IS A SEQUENCE WHICH COULD RESULT IN RADIONUCLIDE RELEASE EARLY IN THE ACCIDENT SEQUENCE. NRC PLANS TO FOCUS PART OF ITS SAFETY RESEARCH ON THESE AREAS AND WILL RELY ON THE FORTHCOMING RESULTS TO CLOSE THESE ISSUES AND ESTABLISH REGULATORY POLICY.

QUESTION 5: THE APS STUDY SUGGESTS THAT NRC CONTRACTORS DID NOT ADDRESS CERTAIN TECHNICAL AREAS (E.G., REVAPORIZATION PHENOMENA) IN SUFFICIENT DEPTH. OTHER AREAS (E.G., RESUSPENSION PHENOMENA) WERE NOT ADDRESSED AT ALL. I UNDERSTAND THAT OTHER STUDIES--INCLUDING THE IDCOR STUDY--FOCUSES ON BOTH ISSUES IN SOME DETAIL. IF CORRECT, WHY DIDN'T THE CHARTER FOR THE APS REVIEW DIRECT THE APS TO EXAMINE A BROADER BASE OF TECHNICAL DATA IN REACHING ITS CONCLUSIONS?

ANSWER.

THE APS REVIEW DID EXAMINE A BROAD BASE OF TECHNICAL DATA ON SOURCE TERM AND IN FACT INCLUDED A REVIEW OF THE IDCOR STUDY ALONG WITH THE QUESTION OF REVAPORIZATION AND RESUSPENSION. APS CONCLUDED THAT THE DATA BASE FOR THESE PHENOMENA WERE INADEQUATE TO SUPPORT CONCLUSIONS BASED SOLELY UPON ANALYSIS. THE NRC CONTRACTORS RECOGNIZE THAT FURTHER WORK WOULD BE NECESSARY IN THIS AREA. NRC HAS RESEARCH PROGRAMS PLANNED TO ADDRESS THESE PHENOMENA.

QUESTION 6. YOUR BUDGET REQUEST FOR NUCLEAR SAFETY AND SAFEGUARDS--THE OFFICE RESPONSIBLE FOR THE HIGH-LEVEL WASTE PROGRAM--REFLECTS A REDUCTION OF $1.8 MILLION IN THE RESOURCES NECESSARY, IN YOUR JUDGMENT, TO KEEP THE NRC'S PROGRAM UP TO PACE WITH DOE'S PROGRAM. IN FACT, YOU NOTE THAT THERE MAY BE A TWO TO SIX MONTH DELAY IN DOE'S SITE CHARACTERIZATION PROCESS, AS A RESULT. PLEASE SUMMARIZE THE STATUS OF NRC'S IMPLEMENTATION OF HIGH-LEVEL WASTE PROGRAM--INCLUDING WHERE YOU STAND ON THE REGULATORY ACTIONS REQUIRED OF THE NRC UNDER THE ACT--AND THEN SUMMARIZE THOSE ACTIVITIES THAT MAY BE AFFECTED AND WHAT THE CONSEQUENCE WILL BE.

ANSWER.

SEVERAL OF THE COMMITTEE'S POST-HEARING QUESTIONS REQUEST INFORMATION ABOUT THE NRC'S HIGH LEVEL WASTE LICENSING PROGRAM AND THE STATUS OF NRC'S IMPLEMENTATION OF ACTIONS REQUIRED BY THE NUCLEAR WASTE POLICY ACT OF 1982. IN PARTIAL ANSWER TO THESE QUESTIONS (#6, 26, AND 41) WE ARE PROVIDING A COPY OF THE STAFF'S SECTION-BY-SECTION IDENTIFICATION OF ITS REQUIREMENTS UNDER THE ACT, WHICH IS ANNOTATED TO SHOW A SUMMARY OF ACTIONS TAKEN AND THE CURRENT SCHEDULE AND STATUS OF EACH ACTION.* THE FIRST SECTION OF THIS ATTACHMENT (PAGES 1-5) IDENTIFIES WHERE NRC STANDS ON THE

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*Retained in committee files.

REGULATORY ACTIONS REQUIRED BY THE ACT FOR THE REPOSITORY DEVELOPMENT PROGRAM.

THE NUCLEAR REGULATORY COMMISSION'S PRINCIPAL RESPONSIBILITY IN THE HIGH-LEVEL WASTE PROGRAM IS TO LICENSE THE HIGH LEVEL WASTE REPOSITORY PROVIDING THAT AN INDEPENDENT NRC DETERMINATION SHOWS THAT THE DEPARTMENT OF ENERGY'S PERFORMANCE OF ITS RESPONSIBILITIES MEETS REGULATORY REQUIREMENTS AND IS ADEQUATE TO PROTECT THE PUBLIC HEALTH AND SAFETY AND THE ENVIRONMENT. IN ORDER TO PROVIDE FOR AN EFFECTIVE AND EFFICIENT LICENSING PROCESS FOR THIS FIRST-OF-A-KIND UNDERTAKING, THE NUCLEAR REGULATORY COMMISSION'S HIGH LEVEL WASTE MANAGEMENT PROGRAM IS NOW:

- DEVELOPING THE METHODS FOR DEMONSTRATING COMPLIANCE WITH PERFORMANCE OBJECTIVES TO PERMIT INDEPENDENT DETERMINATION OF THE ADEQUACY OF THE DOE PROGRAM;
- PROVIDING GUIDANCE TO ASSURE THAT THE DOE PROGRAM PROVIDES ESSENTIAL AND ACCEPTABLE DATA WITHOUT COSTLY DELAY OR REWORK;
- PROVIDING ONSITE OVERVIEW OF DOE ACTIVITIES;
- IDENTIFYING AND RESOLVING ISSUES; AND
- PROVIDING APPROPRIATE AND TIMELY REVIEW AND EVALUATION OF DOE SUBMITTALS.

THE ACTIVITIES THAT WILL BE AFFECTED BY THE REDUCTION OF 7 FTE AND $1.8 MILLION INCLUDE THE STAFF'S PREPARATION FOR REVIEW OF THE SITE CHARACTERIZATION PLANS, PART 60 RULEMAKING ACTIONS, DEVELOPMENT OF LICENSING GUIDANCE, AND OUR OVERVIEW OF DOE'S CRYSTALLINE ROCK PROGRAM. THE CONSEQUENCES WILL BE:

1. LIKELY DELAY DOE'S INITIATION OF SHAFT CONSTRUCTION AND AT-DEPTH SITE CHARACTERIZATION WORK. (2-6 MONTHS DELAY)
2. ALL BUT ELIMINATE OUR OVERVIEW OF DOE'S CRYSTALLINE PROGRAM AND EARLY REVIEW OF DOE'S SCREENING DOCUMENTS.
3. DELAY HLW RULEMAKING SCHEDULE (PART 60). (3-6 MONTHS DELAY)
4. DELAY DEVELOPMENT OF NRC LICENSING GUIDANCE FOR DOE'S REPOSITORY PROGRAM. (4-6 MONTHS DELAY)

QUESTION 7. IN LIGHT OF THE HIGH PRIORITY THAT YOU HAVE ASSIGNED TO THE HIGH-LEVEL WASTE PROGRAM, WHAT OTHER POSSIBLE AVENUES HAVE BEEN EXAMINED TO OBTAIN THE NECESSARY FUNDING FROM PROGRAMS WITHIN THE AGENCY, AND WHAT PROGRAMS WOULD HAVE TO BE REDUCED OR ELIMINATED IN ORDER TO COME UP WITH THE $1.8 MILLION NECESSARY TO KEEP PACE WITH DOE'S PROGRAM?

ANSWER.

IN ALLOCATING THE SUBSTANTIAL REDUCTION TO NRC'S FY 1986 BUDGET REQUEST SUBMITTED TO THE OMB, THE COMMISSION HAD TO MAKE DIFFICULT DECISIONS IN PROVIDING FOR NRC'S HIGHER PRIORITY ACTIVITIES WHILE MAINTAINING AN OVERALL BALANCED NRC PROGRAM. FURTHER, THE COMMISSION HAD TO ENSURE THAT THE NRC WILL CONTINUE TO MEET ITS HIGHEST PRIORITY LICENSING AND INSPECTION NEEDS TO ENSURE THAT ADEQUATE PROTECTION OF THE PUBLIC HEALTH AND SAFETY, AND PROTECTION OF THE ENVIRONMENT IS MAINTAINED. DUE TO THE SIZE OF THE OMB REDUCTION THE COMMISSION HAD TO REDUCE RESOURCES FOR ALL OF NRC PROGRAMS INCLUDING OTHER HIGH PRIORITY ACTIVITIES BESIDES HIGH-LEVEL WASTE. AS DISCUSSED IN THE CHAIRMAN'S TESTIMONY, IF THE DOE MAINTAINS ITS PRESENT SCHEDULE ON THE NATIONAL WASTE MANAGEMENT ACTIVITIES, NRC'S BUDGET LIMITATIONS COULD DELAY DOE'S

INITIATION OF SHAFT CONSTRUCTION AND AT-DEPTH SITE CHARACTERIZATION WORK BY AS MUCH AS SIX MONTHS. THIS POSSIBILITY OF DELAY WAS RECOGNIZED AS AN ACCEPTABLE IMPACT GIVEN THE ALTERNATIVE OF MORE SEVERELY IMPACTING OTHER ACTIVITIES THAT HAVE ALREADY BEEN REDUCED.

COMMISSIONER ASSELSTINE ADDS:

ON JANUARY 16, 1985, I EXPRESSED MY CONCERN TO THE COMMISSION ABOUT THE DELAY IN THE HIGH LEVEL WASTE PROGRAM BROUGHT ABOUT BY THESE BUDGET REDUCTIONS, AS WELL AS THE POTENTIAL AFFECT THESE DELAYS COULD HAVE ON THE COMMISSION'S WASTE CONFIDENCE DECISION. I SUGGESTED THAT THE COMMISSION REALLOCATE FUNDS FROM SOURCE TERM WORK AND FROM THE THERMAL HYDRAULIC TRANSIENTS RESEARCH, EXCEPT MIST AND 20/30, FOR HIGH LEVEL WASTE RESEARCH. THESE SUGGESTIONS WERE NOT ADOPTED BY THE COMMISSION.

QUESTION 8. THE COMMISSION IS REPORTEDLY CONSIDERING REQUESTING LEGISLATION TO AUTHORIZE THE NRC'S HIGH-LEVEL WASTE EXPENSES TO BE PAID OUT OF THE FUND ESTABLISHED UNDER THE NUCLEAR WASTE POLICY ACT. WHAT IS THE STATUS OF YOUR DISCUSSIONS, AND WHAT ARE YOUR VIEWS ON THE WISDOM OF SUCH AN APPROACH? DO YOU INTEND TO RECOMMEND LEGISLATION?

ANSWER.

THE COMMISSION IS CONSIDERING VARIOUS OPTIONS FOR DRAWING FROM THE NUCLEAR WASTE FUND FOR HIGH LEVEL WASTE PROGRAM COSTS INCURRED BY NRC PURSUANT TO THE NWPA. A FINAL POSITION HAS NOT YET BEEN REACHED.

LAST YEAR THE COMMISSION ENTERED VIEWS ON THIS MATTER IN THE RECORD [SEE RESPONSE TO SENATOR SIMPSON'S QUESTION 12, SUBMITTED FEBRUARY 23, 1984, IN RESPONSE TO HIS FEBRUARY 9 LETTER]. AMONG OTHER THINGS, IT INDICATED A CHIEF CONCERN THAT DOE, AS AN NRC LICENSEE, MUST NOT BE -- AND MUST NOT BE PERCEIVED TO BE -- IN A POSITION TO RESTRICT OR INFLUENCE THE COMMISSION'S JUDGEMENT IN CARRYING OUT NRC'S SAFETY AND ENVIRONMENTAL RESPONSIBILITIES UNDER THE NWPA. THIS CONTINUES TO BE A MAJOR CONCERN OF THE COMMISSION.

QUESTION 9. THE NRC STAFF HAS ADVISED THE COMMITTEE THAT THE PROCEDURAL REQUIREMENTS OF APPROVING THE "NO SIGNIFICANT HAZARDS CONSIDERATION"--THE SO-CALLED "SHOLLY AMENDMENTS--MAY BE DISCOURAGING NRC LICENSEES FROM SUBMITTING REQUESTS FOR AMENDMENTS THAT WILL RESULT IN IMPROVEMENTS IN SAFETY. NOW THAT WE HAVE HAD ABOUT TWO YEARS OF EXPERIENCE IN IMPLEMENTING THE "SHOLLY" PROVISION, WHAT ARE THE COMMISSION'S VIEWS ON HOW THIS AUTHORITY IS WORKING?

ANSWER.

ENCLOSED IS A COPY OF THE "SHOLLY" STATISTICS COVERING THE PERIOD MAY 6, 1983 (THE DATE THE SHOLLY RULES WERE PUBLISHED) THROUGH FEBRUARY 27, 1985.* THE OFFICE OF NUCLEAR REACTOR REGULATION (NRR) COMPILES AND UPDATES THESE STATISTICS MONTHLY. AS REQUESTED BY THE COMMITTEE, NRR HAS BEEN SENDING IT NRC'S MONTHLY SHOLLY NOTICES. THE STATISTICS SHOW THAT OUT OF A TOTAL OF 1900 NOTICES, 14 COMMENTS AND 15 REQUESTS FOR HEARINGS WERE RECEIVED. THE MONTHLY NOTICES REQUIRE A SUBSTANTIAL NUMBER OF PAGES IN THE FEDERAL REGISTER EACH MONTH. TWO MATTERS ARE NOTEWORTHY ABOUT NRC'S NOTICES AND ABOUT THE SHOLLY LEGISLATION. FIRST, IN "EXIGENT CIRCUMSTANCES"--INSTANCES SHORT OF "EMERGENCY SITUATIONS" WHERE TIMELY ACTION IS NECESSARY ON AN AMENDMENT REQUEST--THERE ARE FAIRLY LENGTHY DELAYS NECESSITATED BY THE LEGISLATION'S

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*Retained in committee files.

REQUIRED NOTICING PROVISIONS. THE ADMINISTRATIVE EFFORT NECESSARY TO PUBLISH A NOTICE IN ORDER TO DISPENSE WITH THE 30-DAY NOTICING PROVISIONS IN SUBSECTION 189A(1) OF THE ATOMIC ENERGY ACT TAKES LONGER THAN 30 DAYS. THE NOTICE REQUIRED BY SUBSECTION 189A(2)(B) CAN BE SHORTER THAN 30 DAYS. HOWEVER, LESS THAN 10 DAYS OF NOTICE IN THE FEDERAL REGISTER IS NOT LIKELY TO BE VIEWED AS SUFFICIENT TO PROVIDE THE PUBLIC AN EFFECTIVE OPPORTUNITY TO COMMENT. ALLOWING TIME FOR PROCESSING AND SCHEDULING BOTH BY THE NRC AND THE FEDERAL REGISTER REQUIRES SIGNIFICANTLY MORE THAN 30 DAYS EVEN IF A SHORTENED NOTICE PERIOD IS PROVIDED. SECOND, AS A RELATED MATTER, THOUGH THE PURPOSE OF THE SHOLLY LEGISLATION WAS TO ELIMINATE THE NEED FOR PRIOR HEARINGS IN DEFINED CIRCUMSTANCES, THE STATUTE DOES NOT STATE THIS PURPOSE ON ITS FACE. CONSEQUENTLY, IF SOMEONE WERE TO REQUEST A PRIOR HEARING ON THE ISSUE OF WHETHER THE RECORD SUPPORTS THE AGENCY'S DETERMINATION OF "NO SIGNIFICANT HAZARDS" AND THE REQUEST WAS RECEIVED PRIOR TO THE ISSUANCE OF THE AMENDMENT, THERE COULD BE DELAYS WHILE DECISIONS WERE MADE CONCERNING THE LEGAL ISSUES INVOLVED. THE COMMISSION'S RULES IMPLEMENTING THE SHOLLY LEGISLATION HAVE ASSUMED THAT PRIOR HEARINGS WILL NOT BE HELD IN SUCH CIRCUMSTANCES.

COMMISSIONER ASSELSTINE ADDS:

AS HE STATED DURING THE COMMITTEE'S HEARING, COMMISSIONER ASSELSTINE BELIEVES THAT THE ADMINISTRATIVE BURDEN IMPOSED BY THE SHOLLY AMENDMENT ON THE STAFF AND ON THE LICENSEES COULD BE REDUCED SUBSTANTIALLY BY PREPARING AN ANALYSIS OF THE NO SIGNIFICANT HAZARDS CONSIDERATION QUESTION ONLY FOR THOSE PROPOSED AMENDMENTS WHICH HAVE BEEN NOTICED AND WHICH ARE THE SUBJECT OF A HEARING REQUEST.

QUESTION 10. YOUR BUDGET REQUEST FOR FISCAL YEAR 1986 REFLECTS AN INCREASE OF SIX STAFF--FROM 38 TO 44--FOR THE OFFICE OF INVESTIGATIONS. PLEASE SUMMARIZE WHAT STANDARDS HAVE BEEN ESTABLISHED BY THE COMMISSION FOR THE INITIATION OF INQUIRIES BY THE OFFICE OF INVESTIGATIONS; AND THEN FOR THE INITIATION OF A FORMAL INVESTIGATION. FOR EACH FISCAL YEAR SINCE OI WAS ESTABLISHED, PLEASE PROVIDE A LISTING OF (I) INQUIRIES INITIATED BY THIS OFFICE AND THE STATUS OF EACH, AND (II) ISSUES REFERRED TO THE DEPARTMENT OF JUSTICE BY OI.

ANSWER.

OI HAS DEVISED TWO TYPES OF INVESTIGATIVE ACTIVITY TO DEAL WITH DEVELOPED OR REPORTED INFORMATION RELATING TO WRONGDOING BY COMMISSION LICENSEES, PERMITTEES OR APPLICANTS, THEIR CONTRACTORS OR EMPLOYEES, OR VENDORS. THESE ARE INQUIRIES AND INVESTIGATIONS. THE LATTER ARE CONDUCTED TO DETERMINE THE FACTS REGARDING ACTUAL OR SUSPECTED WRONGDOING AFTER IT IS DETERMINED TO FALL WITHIN OI JURISDICTION AND TO WARRANT A FULL INVESTIGATION. INVESTIGATIONS ARE THE RAISON D'ETRE FOR OI'S EXISTENCE AND AS SUCH REPRESENT THE MAJOR PORTION OF OI OPERATIONS.

QUESTION 10. - 2 -

INQUIRIES ARE CONDUCTED TO OBTAIN SUFFICIENT INFORMATION TO DETERMINE THE APPROPRIATE NRC RESPONSE TO REPORTED OR DEVELOPED INFORMATION AND ARE CONDUCTED BY OI WHENEVER SUCH INFORMATION ON ITS FACE APPEARS TO REPRESENT A MATTER FALLING WITHIN OI JURISDICTION. INQUIRIES INVOLVE ONLY LIMITED FIELD ACTIVITY--TWO OR THREE INTERVIEWS ON THE AVERAGE. THEY ARE DOCUMENTED IN A BRIEF REPORT GENERATED BY AN OI FIELD OFFICE. REPORTS OF INQUIRY CAN RESULT IN THE INITIATION OF AN INVESTIGATION, A STAFF DECISION TO HANDLE A MATTER VIA THE INSPECTION PROGRAM, OR A STAFF DETERMINATION THAT THE MATTER IS OF NO DIRECT INTEREST TO THE NRC.

THE COMMISSION HAS ESTABLISHED FORMAL POLICIES WITHIN WHICH THE OFFICE OF INVESTIGATIONS CONDUCTS ITS PROGRAM. THE COMMISSION HAS NOT ESTABLISHED STANDARDS SPECIFYING WHEN AND WHEN NOT TO INSTITUTE AN INQUIRY OR INVESTIGATION. HOWEVER, THE COMMISSION HAS DIRECTED THE OFFICE OF INVESTIGATIONS, IN COORDINATION WITH THE EXECUTIVE DIRECTOR FOR OPERATIONS, TO DEVELOP APPROPRIATE THRESHOLD LEVELS AND THE PRIORITIES FOR INITIATING AND TERMINATING INVESTIGATIONS. THIS EFFORT IS EXPECTED TO BE COMPLETED BY MID-1985.

WE HAVE INCLUDED THE REQUESTED LISTING* OF OI INQUIRIES BY CALENDAR YEAR RATHER THAN FISCAL YEAR AS OUR DATA BASE IS ON A CALENDAR YEAR BASIS. WE HAVE NOT INCLUDED INVESTIGATIONS AS YOUR

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*Retained in committee files.

REQUEST APPEARED TO DISTINGUISH BETWEEN THESE TWO ACTIVITIES. WE, OF COURSE, WOULD PROVIDE A LISTING OF INVESTIGATIONS IF YOU SUBSEQUENTLY ELECT TO REQUEST ONE. WE HAVE ALSO INCLUDED A LIST OF OI CASES REFERRED TO THE U.S. DEPARTMENT OF JUSTICE. PLEASE NOTE THE RESTRICTIONS ON THE PUBLIC RELEASE OF EITHER LISTING DUE TO THE ADVERSE IMPACT THAT SUCH A RELEASE COULD HAVE ON THE SUCCESSFUL INVESTIGATION OR PROSECUTION OF ANY OF THE LISTED MATTERS STILL PENDING.

QUESTION 11. YOU HAVE IDENTIFIED IN YOUR TESTIMONY BEFORE THE COMMITTEE TWO AREAS--PRESSURIZED THERMAL SHOCK AND CRACKING IN BOILING WATER REACTORS--WHERE THE RESEARCH PERFORMED BY THE NRC WAS OF DIRECT AND MEASURABLE BENEFIT TO THE UTILITIES, BECAUSE THE RESEARCH RESULTS KEPT THE NRC FROM SHUTTING THOSE PLANTS DOWN. HOW MUCH OF NRC'S RESEARCH IS OF THIS NATURE--PROVIDING A DIRECT BENEFIT TO SOMEONE--AND WHERE THIS IS THE CASE, WHAT AUTHORITY DOES THE COMMISSION HAVE TO REQUIRE THE BENEFICIARIES OF THE RESEARCH TO SHARE THE COST? CAN THE COMMISSION, FOR EXAMPLE, USE ITS AUTHORITY TO ASSESS LICENSING FEES TO OFFSET SOME OF THESE COSTS? IF NOT, WOULD IT MAKE SENSE TO CONSIDER ADDITIONAL LEGISLATIVE AUTHORITY ALONG THESE LINES?

ANSWER.

THE REGULATORY RESEARCH PROGRAM IS ESSENTIAL TO THE EFFECTIVE EXECUTION OF THE COMMISSION'S PUBLIC HEALTH AND SAFETY RESPONSIBILITY. THIS WORK PROVIDES SOUND INFORMATION FOR DEALING WITH COMPLEX TECHNICAL ISSUES. WITHOUT THIS INFORMATION, NRC DECISIONS ON PLANT OPERATIONS AND NUCLEAR SAFETY MUST BE BASED ON CONSERVATIVE ASSUMPTIONS THAT COULD LEAD TO UNNECESSARY PLANT SHUTDOWNS AND DELAYS. METHODS OF SAFETY ASSESSMENT EXIST NOW, AND THESE ARE APPLIED IN THE COURSE OF LICENSING PROCEEDINGS. WHERE DATA ARE MISSING OR INADEQUATE, THE ASSESSMENT METHODS USE

CONSERVATIVE ASSUMPTIONS. WHERE THE MODELS ARE SIMPLIFIED OR HAVE NOT BEEN TESTED ADEQUATELY, THE SAME PRINCIPLES OF CONSERVATISM ARE USED. THE DEGREE OF CONSERVATISM USED MUST BE BETTER DETERMINED, SO THAT CONFIDENCE IN THE ASSESSMENT METHODS CAN BE INCREASED AND UNNECESSARY PENALTIES TO COMPENSATE FOR INADEQUATE DATA BE REMOVED. THE NRC RESEARCH EFFORT IS NOT EXECUTED FOR THE DIRECT BENEFIT OF THE NUCLEAR UTILITIES BUT RATHER TO IMPROVE AND INCREASE CONFIDENCE IN THE ASSESSMENT METHODOLOGY TO ASSURE THE PUBLIC'S HEALTH AND SAFETY. THE PROGRAM STRESSES OBTAINING GOOD SCIENTIFIC INFORMATION IN AN ORDERLY, PLANNED MANNER SO THAT THE AGENCY CAN MAKE SOUND DECISIONS ON REGULATORY ISSUES.

THE OBJECTIVE IN THE PRESSURIZED THERMAL SHOCK AND PIPE CRACK EFFORTS WAS TO PROVIDE SOUND DATA TO PERMIT THE COMMISSION TO MAKE PROMPT DECISIONS THAT WOULD ASSURE SAFETY. THE AVAILABILITY OF THIS DATA MADE IT POSSIBLE TO MAKE DECISIONS PROMPTLY AND WITHOUT UNDUE CONSERVATISM. THUS, THE BENEFIT TO THE INDUSTRY WAS INDIRECT AND ENGINEERED DATA WAS AVAILABLE TO THE PUBLIC. ALSO, THERE ARE INDUSTRY PROGRAMS THAT DEALT WITH THESE SAME ISSUES AND INDUSTRY DID MAKE A CONTRIBUTION TO THE RESOLUTION OF CONSERVATIVE LICENSING REQUIREMENTS.

IN OTHER AREAS OF RESEARCH, SUCH AS INTEGRAL TEST FACILITIES FOR ASSESSING THERMAL-HYDRAULICS, THERE IS A MORE DIRECT BENEFIT TO

INDUSTRY IN THAT THE DATA PERMITS IMPROVED AND SIMPLIFIED OPERATIONS. IN THOSE CASES, TYPICALLY ABOUT 60 PERCENT OF THE COST OF THE PROGRAMS IS BORNE BY INDUSTRY AND 40 PERCENT BY NRC. THESE PERCENTAGES ARE THE RESULT OF NEGOTIATIONS AND ARE FELT TO MIRROR THE PROPORTIONATE LEVEL OF ADVANTAGE TO THE REGULATORS IN ASSURING SAFETY AND TO THE PLANT OWNERS IN ASSURING SAFE AND RELIABLE REACTOR OPERATION.

UNDER CURRENT LAW (31 U.S.C. 9701), THE NRC HAS AUTHORITY TO RECOVER THE COSTS OF PROVIDING SERVICES TO IDENTIFIABLE APPLICANTS FOR THE SERVICE, OR FOR ACTIVITIES, SUCH AS INSPECTIONS WHERE THE BENEFICIARY IS CLEARLY IDENTIFIED AND THE NRC ACTIVITY HELPS MAINTAIN COMPLIANCE WITH REGULATIONS. ALTHOUGH APPLICANTS AND LICENSEES MAY BE BENEFITTED BY CERTAIN RESEARCH PROGRAMS, PRESENT LAW SEVERELY LIMITS RECOVERY OF THOSE RESEARCH COSTS THROUGH FEES. NRC, IN SOME CASES, MAY REQUIRE AN APPLICANT TO DO RESEARCH AT THEIR OWN COST TO EMPIRICALLY DEMONSTRATE THAT A PLANT SPECIFIC APPROACH TO MEETING REQUIREMENTS IS EFFECTIVE.

AS NOTED ABOVE, THE NUCLEAR INDUSTRY ALREADY IS FUNDING ABOUT 60% OF THE COST OF MAJOR RESEARCH PROGRAMS FOR POWER REACTORS. ACCORDINGLY, NO LEGISLATION IS NEEDED TO EFFECT REIMBURSEMENT TO THE GOVERNMENT OF A FAIR SHARE OF COSTS.

COMMISSIONER ASSELSTINE ADDS:

THROUGHOUT THE HISTORY OF LICENSING COMMERCIAL NUCLEAR REACTORS, THE APPLICANTS FOR CONSTRUCTION PERMITS AND OPERATING LICENSES HAVE PROVIDED LIMITED DATA TO JUSTIFY THE ADEQUACY OF THEIR DESIGNS. THE DATA WAS SO LIMITED, FOR EXAMPLE ON THE EFFICACY OF THE EMERGENCY CORE COOLING SYSTEMS, THAT THERE WAS NO ALTERNATIVE TO MAKING CONSERVATIVE ASSUMPTIONS IN ANALYZING THE SAFETY OF THE PLANTS. THIS MAY HAVE RESULTED IN A PENALTY ON THE PLANT OPERATIONS BUT THE APPLICANTS DID NOT HAVE SUFFICIENT DATA TO JUSTIFY OTHERWISE. OVER THE PAST FIFTEEN TO TWENTY YEARS, THE NRC/AEC HAS BEEN FUNDING THE RESEARCH TO OFFSET THE ORIGINAL INADEQUACIES IN THE APPLICANT'S DATA BASE. WITH THIS GOVERNMENT SPONSORED RESEARCH NOW IN HAND, THE NUCLEAR INDUSTRY IS PRESSURING NRC TO RELAX THE STANDARDS. IT IS BECAUSE THE NUCLEAR INDUSTRY DID NOT PROVIDE THE SUPPORTING DATA AT THE DESIGN AND CONSTRUCTION STAGE THAT WE ARE TODAY FACED WITH THE DEBATE ON WHO SHOULD FUND SAFETY RESEARCH RELATED TO THE EXISTING LIGHT WATER REACTORS.

QUESTION 12. THE BUDGET REQUEST THAT YOU HAVE SUBMITTED WILL, IF APPROVED, RESULT IN THE COMMISSION'S DEFERRING ACTION ON MEDIUM PRIORITY GENERIC SAFETY ISSUES AND MEDIUM PRIORITY HUMAN FACTORS ISSUES. WHAT IS THE SAFETY SIGNIFICANCE OF THE MEDIUM PRIORITY ISSUES THAT WOULD BE DEFERRED, AND IS THE COMMISSION COMFORTABLE DEFERRING THE RESOLUTION OF THESE CONCERNS?

ANSWER.

A MEDIUM PRIORITY MEANS THAT NO SAFETY DEFICIENCY DEMANDING HIGH-PRIORITY ATTENTION IS INVOLVED, BUT THERE IS BELIEVED TO BE POTENTIAL FOR SAFETY IMPROVEMENTS OR REDUCTIONS IN UNCERTAINTY OF ANALYSIS THAT MAY BE SUBSTANTIAL AND WORTHWHILE. EFFORTS AT RESOLUTION OF EXISTING MEDIUM PRIORITY ISSUES HAVE BEEN PLANNED, BUT ON A BASIS THAT WOULD NOT INTERFERE WITH PURSUIT OF HIGH-PRIORITY GENERIC ISSUES OR OTHER HIGH-PRIORITY WORK.

WITH HIGH-PRIORITY ISSUES THERE IS A HIGH EXPECTATION THAT THEIR RESOLUTION WILL INVOLVE IMPOSITION OF SOME NEW OR STRENGTHENED SAFETY REQUIREMENTS. THERE IS NO CLEAR BASIS FOR SUCH AN EXPECTATION WITH MEDIUM-PRIORITY ISSUES. RATHER, A CLEAR ASSESSMENT OF THE SAFETY SIGNIFICANCE OF MEDIUM PRIORITY ISSUES MUST AWAIT THE RESULTS OF EFFORTS AT RESOLUTION. AT THE OUTSET OF SUCH EFFORTS, THERE IS A SUBSTANTIAL POSSIBILITY THAT THE SAFETY

SIGNIFICANCE WILL INDICATE A NEED FOR REGULATORY ACTION AND ALSO A SUBSTANTIAL POSSIBILITY THAT NO ACTION WILL BE WARRANTED. AS WORK PROGRESSES AND ITS OUTCOME BECOMES CLEARER, EFFORTS TO COMPLETE RESOLUTION MAY BE INTENSIFIED OR DROPPED.

DEFERMENT OF RESOLUTION EFFORTS ON MEDIUM-PRIORITY ISSUES WOULD NOT AFFECT ONGOING WORK THAT IS WELL ALONG. THE DEFERMENT WOULD APPLY ONLY TO NEW MEDIUM-PRIORITY ISSUES. THE SAFETY SIGNIFICANCE OF THE DEFERMENT CANNOT BE ASSESSED AT THIS TIME; HOWEVER, SOME POTENTIAL FOR WORTHWHILE SAFETY IMPROVEMENT OR REDUCTION IN UNCERTAINTY MAY WELL BE LOST.

COMMISSIONER ASSELSTINE ADDS:

COMMISSIONER ASSELSTINE HAS THE FOLLOWING COMMENT: I AM GRATIFIED THAT THE STAFF HAS APPARENTLY FOUND THE RESOURCES TO DO SOME ADDITIONAL WORK ON THE MEDIUM PRIORITY SAFETY ISSUES BEYOND WHAT WAS PROPOSED BY THE STAFF AND APPROVED BY A MAJORITY OF THE COMMISSION IN THE FY86 BUDGET PROPOSAL.

QUESTIONS 13. FOR SOME OF THE MEDIUM PRIORITY ISSUES IN THE HUMAN FACTORS AREA, IT APPEARS THAT ON MATTERS INVOLVING TRAINING, STAFFING AND QUALIFICATIONS, LICENSING EXAMS, AND THE MAINTENANCE OF POWER PLANTS, AN OPPORTUNITY MIGHT EXIST FOR AN ORGANIZATION LIKE INPO TO ADDRESS SOME OF THESE CONCERNS. WHAT ARE THE COMMISSION'S VIEWS ON WHETHER RELIANCE ON INPO WOULD BE AN EFFECTIVE AND EFFICIENT ALTERNATIVE TO SIMPLY DEFERRING OR CANCELLING RESOLUTION OF THESE MEDIUM PRIORITY HUMAN FACTORS ISSUES?

ANSWER.

THE COMMISSION BELIEVES THAT RELIANCE ON INPO TO RESOLVE MEDIUM PRIORITY HUMAN FACTORS ISSUES COULD BE AN EFFECTIVE AND EFFICIENT ALTERNATIVE TO SIMPLY DEFERRING OR CANCELLING RESOLUTION OF THESE ISSUES. HOWEVER, THE MOST EFFECTIVE MECHANISM FOR WORKING WITH THE INDUSTRY IS THROUGH NUMARC NOT DIRECTLY WITH INPO. INPO, BY THEIR CHARTER, IS NOT ALLOWED TO PARTICIPATE IN NRC RULEMAKING AND REGULATORY ACTIVITY. NUMARC, HOWEVER, COULD ADDRESS ISSUES DIRECTLY OR THROUGH THE EFFORTS OF INPO, AIF, EPRI OR ANS, AS APPROPRIATE TO THE QUESTION. WORKING WITH NUMARC WE HAVE ALREADY EFFECTIVELY ADDRESSED SEVERAL HIGH

PRIORITY ISSUES, E.G., TRAINING, FITNESS FOR DUTY, AND ENGINEERING EXPERTISE ON SHIFT. IN THESE EFFORTS NUMARC HAS SELECTED THE APPROPRIATE ORGANIZATION TO PURSUE TECHNICAL RESOLUTION AND NRC IS MONITORING PROGRESS AND IMPLEMENTATION.

WE WOULD HAVE NO OBJECTION TO ALLOWING NUMARC TO PURSUE ISSUES THAT HAVE BEEN DEFERRED OR CANCELLED. THIS WOULD PROVIDE SOME RESOLUTION OF THESE ISSUES THAT NRC IS NOT ABLE TO PURSUE. HOWEVER, THE COMMISSION IS NOT IN A POSITION TO DIRECT ANY INDUSTRY ORGANIZATION TO PERFORM THE NECESSARY WORK SINCE WE DO NOT PROVIDE OR CONTROL THEIR RESOURCES. ALSO, THE COMMISSION WOULD NOT WANT TO DIVERT THE LIMITED RESOURCES OF THE INDUSTRY ORGANIZATIONS FROM HIGHER PRIORITY SAFETY WORK.

QUESTION 14. THE SECOND MAJOR ACTIVITY TO BE DEFERRED IN NRR IS THE "INTEGRATED SAFETY ASSESSMENT PROGRAM." WHAT WILL BE THE CONSEQUENCE OF A ONE-YEAR DELAY IN THIS PROGRAM, AND WOULD A ONE-YEAR DEFFERAL OF THIS PROGRAM ENABLE THE COMMISSION TO INCORPORATE WHATEVER REGULATORY REQUIREMENTS MIGHT EVOLVE FROM THE "SEVERE ACCIDENT" POLICY?

ANSWER.

THE COMMISSION'S POLICY STATEMENT DESCRIBING THE INTEGRATED SAFETY ASSESSMENT PROGRAM (ISAP) EXPLAINS THAT A PILOT PROGRAM WOULD BE UNDERTAKEN, RELYING ON VOLUNTARY PARTICIPATION, TO ASSESS THE EFFECTIVENESS OF REGULATORY POLICIES AND PRACTICES BY WHICH ALL PENDING AND POTENTIAL SAFETY ISSUES FOR A GIVEN OPERATING NUCLEAR POWER PLANT WOULD BE EVALUATED IN AN INTEGRATED ASSESSMENT TO ESTABLISH A COMPREHENSIVE INTEGRATED SCHEDULE FOR PLANT IMPROVEMENTS (49 FR 45112). THE PILOT PROGRAM WAS ORIGINALLY SCHEDULED TO BEGIN IN EARLY FY 1985; BASED ON THE IMPACT OF THE BUDGET CONSTRAINTS FOR FY 1986, THE COMMISSION DECIDED TO DELAY IMPLEMENTATION OF THE PILOT PROGRAM UNTIL FY 1987. THE DIRECT CONSEQUENCES OF SUCH A DELAY WOULD BE (1) AN ASSESSMENT OF THE EFFECTIVENESS OF THIS APPROACH WOULD NOT BE COMPLETED UNTIL EARLY FY 1988, AND (2) THERE MAY NOT BE ANY VOLUNTEERS AVAILABLE AT THAT TIME, SUCH THAT WE WOULD HAVE TO CONSIDER ALTERNATIVE MEASURES TO IMPLEMENT THIS APPROACH.

WE HAVE RECENTLY FOUND THAT INDUSTRY INTEREST IN THIS APPROACH IS GREATER THAN WE ORIGINALLY PERCEIVED. AS A RESULT, WE ARE CURRENTLY CONSIDERING OTHER ALTERNATIVES TO IMPLEMENT THE PILOT PROGRAM ON TWO PLANTS, WHICH WOULD INVOLVE AT LEAST A LIMITED EFFORT IN FY 1985 AND WOULD REQUIRE A SMALLER RESOURCE COMMITMENT. THE ALTERNATIVE APPROACHES BEING CONSIDERED SHOULD ALLEVIATE THE CONSEQUENCES DESCRIBED ABOVE. IN ANY CASE, WE WOULD INTEND TO SCHEDULE COMPLETION OF ONE PLANT BY ABOUT THE END OF FY 1985. (SEE ALSO, THE RESPONSE TO QUESTION 35.)

AS DESCRIBED IN THE COMMISSION'S POLICY STATEMENT ON SEVERE ACCIDENTS AND IN NUREG-1070, WE BELIEVE THAT THERE WILL BE FEW, IF ANY, NEW "REGULATORY REQUIREMENTS" FOR OPERATING REACTORS EVOLVING FROM THE SEVERE ACCIDENT STUDIES. WHILE THESE ONGOING STUDIES ARE EXPECTED TO CONFIRM THIS JUDGMENT, WE ALSO EXPECT THAT THEY WILL IDENTIFY PROCEDURES TO FIND VERY PLANT-SPECIFIC VULNERABILITIES TO SEVERE ACCIDENTS OR "OUTLIERS." WE BELIEVE THERE WOULD BE A BENEFIT IN CONDUCTING ISAP IN CONJUNCTION WITH THE SEVERE ACCIDENT STUDIES IN ORDER TO DEVELOP EXPERIENCE IN THE IDENTIFICATION AND RESOLUTION OF SUCH OUTLIERS.

QUESTION 15. THE NRC WILL BE DEFERRING ABOUT 250 LICENSING ACTIONS IN NRR THIS YEAR. HOW MANY, IF ANY, ARE SAFETY-RELATED, AND WHAT WILL THE RESULT OF A ONE-YEAR DEFERRAL IN APPROVING THESE ACTIONS BE?

ANSWER.

THE NRC IS PLANNING TO COMPLETE ABOUT 3,500 OPERATING REACTOR LICENSING ACTIONS IN FY 1986. THESE ACTIONS INCLUDE THE IMPLEMENTATION OF REGULATIONS AND ACTIONS TO IMPROVE IDENTIFIED INADEQUACIES IN PLANT DESIGN/OPERATIONS, AS WELL AS ACTIONS TO IMPROVE PLANT EFFICIENCIES. THE NRC WILL NOT DEFER ANY SAFETY-RELATED LICENSING ACTIONS. THE ACTIONS THAT WILL BE DEFERRED WILL BE THOSE ACTIONS INITIATED TO IMPROVE PLANT EFFICIENCIES; THE RESULT MAY BE SOME INCONVENIENCE/INEFFICIENCY TO PLANTS.

QUESTION 16. THE BUDGET REQUEST FOR FISCAL YEARS 1986 AND 1987 REFLECTS A SIGNIFICANT REDUCTION IN THE COMMISSION'S LICENSING ACTIVITIES FOR POWER PLANTS. YET THE STAFFING LEVELS FOR THOSE OFFICES PRINCIPALLY INVOLVED IN LICENSING--THE APPEAL PANEL, LICENSING BOARD, EXECUTIVE LEGAL DIRECTOR, ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, AND OFFICE OF GENERAL COUNSEL--SHOW ONLY A SLIGHT REDUCTION THROUGH FISCAL YEAR 1987. IF THE COMMISSION LICENSES 12 REACTORS IN 1985, 15 IN 1986, AND 3 IN 1987, WHY ISN'T THERE A CORRESPONDING DECLINE IN THE STAFFING LEVELS FOR EACH OF THESE FIVE OFFICES?

ANSWER.

DURING THE FIRST SIX MONTHS OF FY 1985, NRC ISSUED 7 NEW POWER PLANT OPERATING LICENSES LIMITED INITIALLY TO 5% POWER. ANOTHER 6 NEW OPERATING LICENSES ARE EXPECTED TO BE ISSUED DURING THE REMAINDER OF FY 1985; 12 IN FY 1986 AND 5 IN FY 1987. FOR FY 1982, FY 1983, AND FY 1984 5, 3 AND 5 NEW OPERATING LICENSES WERE ISSUED, RESPECTIVELY.

DECREASING REACTOR LICENSING ACTIVITIES IN FY1987 WILL REDUCE ASSOCIATED AREAS OF THE STAFFS OF THE EXECUTIVE LEGAL DIRECTOR, THE ATOMIC SAFETY AND LICENSING APPEAL PANEL, THE ATOMIC SAFETY AND LICENSING BOARD PANEL, THE ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, AND THE OFFICE OF THE GENERAL COUNSEL. THE REDUCTION

TO STAFF IS NOT A STRICT ONE-FOR-ONE RATIO TO DECREASING OPERATING LICENSE ISSUES. THESE OFFICES ENGAGE IN OTHER NRC MISSION-RELATED ACTIVITIES THAT DO NOT FOLLOW THE DECREASING WORKLOAD ASSOCIATED WITH REACTOR LICENSING BUT WILL BE AFFECTED BY THE INCREASING NUMBERS OF AMENDMENTS, RULEMAKING AND QUALITY ASSURANCE ACTIVITY THAT ARE RELATED TO A GROWING NUMBER OF OPERATING REACTORS.

FURTHERMORE, EACH OFFICE STAFF RELATED TO POWER REACTOR LICENSING HAS A DIFFERING DEGREE OF INVOLVEMENT AND APPLIES ITS EFFORT AT DIFFERENT TIMES THROUGHOUT THE LICENSING PROCESS. FOR EXAMPLE, THE ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' REVIEW WILL BE PERFORMED 12 TO 18 MONTHS PRIOR TO OPERATING LICENSE ISSUANCE, AND FOR THAT REASON THE STAFF EFFORT ASSOCIATED WITH OPERATING LICENSING REVIEW IN THE ACRS OFFICE IS EXPECTED IN FY86 TO BE ONLY ABOUT ONE STAFF YEAR. THE EXECUTIVE LEGAL DIRECTOR AND THE ATOMIC SAFETY AND LICENSING BOARD PANEL, ON THE OTHER HAND, WILL REQUIRE EFFORT FROM ABOUT 2-1/2 TO 3 YEARS BEFORE THE INITIAL DECISION TO ABOUT 6 WEEKS AFTER THE LICENSING DECISION HAS BEEN MADE. IN ADDITION, THE EXECUTIVE LEGAL DIRECTOR AND THE ATOMIC SAFETY AND LICENSING APPEAL PANEL ARE FREQUENTLY INVOLVED IN LENGTHY APPEALS AFTER THE LICENSING DECISION, WHILE THE OFFICE OF THE GENERAL COUNSEL CAN BE INVOLVED UP TO 2-1/2 YEARS IN POST-LICENSING LITIGATION.

ATTACHED IS A FIVE YEAR PROJECTION FOR ASLBP WORKLOADS AND ACTIVITIES.*

COMMISSION ASSELSTINE ADDS:

COMMISSIONER ASSELSTINE BELIEVES THAT SAVINGS IN THE STAFF LEVELS OF SEVERAL OF THESE OFFICES CAN BE ACHIEVED BEGINNING IN THE LATTER PART OF FY1986 AS THE REACTOR CASELOAD BEGINS TO DECLINE.

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*Retained in committee files.

QUESTION 17. PLEASE SUMMARIZE ALL SIGNIFICANT CHANGES OR ADDITIONS IN THE COMMISSION'S 1985 POLICY AND PLANNING GUIDANCE, SUBMITTED TO THE COMMITTEE ON MARCH 4, 1985.

ANSWER.

THE MOST SIGNIFICANT CHANGE IN THIS YEAR'S POLICY AND PLANNING GUIDANCE (PPG) HAS BEEN THE ADDITION OF A NEW SECTION WHICH EXPLAINS THE COMMISSION'S REGULATORY PHILOSOPHY AND STATES CERTAIN SUPPORTING PRINCIPLES. THIS SECTION REPLACES THE SECTION ENTITLED "RAISING THE QUALITY OF NUCLEAR PLANTS." THE SECTIONS ON QUALITY ASSURANCE FROM LAST YEAR'S DOCUMENT HAVE BEEN UPDATED AND INCORPORATED IN OTHER SECTIONS OF THE NEW PPG.

IN ADDITION TO THE PHILOSOPHY AND SUPPORTING PRINCIPLES, THE COMMISSION ESTABLISHED SPECIAL REGULATORY OBJECTIVES FOR THE NEXT SEVERAL YEARS INCLUDING: IMPLEMENTING A SAFETY GOAL; ACHIEVING TECHNICAL RESOLUTION OF CURRENT UNRESOLVED SAFETY ISSUES; SEEKING LICENSING REFORM LEGISLATION AND IMPLEMENTING LICENSING REFORMS; COMPLETING ASSESSMENT OF THE RADIOACTIVE SOURCE TERMS; COMPLETING DEVELOPMENT OF AND IMPLEMENTING A POLICY ON SEVERE ACCIDENTS; SETTING FORTH A PROCEDURE FOR

REVIEW AND APPROVAL OF STANDARD PLANT DESIGNS AND PREAPPROVAL OF PLANT SITES; DEVELOPING PROCEDURES FOR PROCEEDING WITH NUCLEAR POWER PLANT PROJECTS REACTIVATED BY UTILITIES; DETERMINING A WAY TO INCORPORATE INDUSTRY SAFETY INITIATIVES IN NUCLEAR REGULATION; PURSUING IMPROVEMENTS IN CONSTRUCTION QUALITY ASSURANCE; ENSURING THAT ADEQUATE AND TIMELY ACTIONS ARE TAKEN TO CARRY OUT NRC'S RESPONSIBILITIES UNDER THE NUCLEAR WASTE POLICY ACT; AND IMPLEMENTING A POLICY FOR EARLY REVIEW OF ADVANCED REACTOR CONCEPTS AND DESIGNS.

ASIDE FROM THE MAJOR CHANGES MENTIONED ABOVE, APPROPRIATE SECTIONS OF THE DOCUMENT WERE UPDATED TO REFLECT ACCOMPLISHMENTS AND THE LATEST BUDGET DECISIONS. THE COMMISSION ALSO ELIMINATED THE SECTION ON DECENTRALIZATION AND ADDED A NEW SECTION ON ADVANCED REACTORS.

QUESTION 18. HAS THE COMMISSION ESTABLISHED PROCEDURES FOR THE LITIGATION OF THE RESULTS OF EMERGENCY PLANNING EXERCISES, AS A RESULT OF THE RECENT DECISION IN UNION OF CONCERNED SCIENTISTS V. NRC (735 F.2D 1437)? IF NOT, WHEN DOES THE COMMISSION EXPECT TO DO SO?

ANSWER.

NO. THE COMMISSION CURRENTLY HAS BEFORE IT STAFF RECOMMENDATIONS FOR IMPLEMENTING THE COURT'S DECISION. THE SUGGESTIONS FOR EMERGENCY PLANNING EXERCISE LITIGATION CONTAINED IN THE COURT'S OPINION ARE ESSENTIALLY CONTAINED IN NRC'S CURRENT REGULATIONS.

QUESTION 19. (A) IN THE COMMISSION'S FEBRUARY 1, 1985 REPLY TO CONGRESSMAN TOM BEVILL, THE COMMISSION IDENTIFIED A TOTAL OF TEN MONTHS OF PROJECTED DELAYS IN THE LICENSING OF NUCLEAR POWER PLANTS. FOR EACH OF THE THREE CASES IDENTIFIED--SHOREHAM, COMANCHE PEAK, AND LIMERICK I--PLEASE DISCUSS WHETHER THE APPLICANTS WOULD BE ELIGIBLE TO FILE FOR A TEMPORARY OPERATING LICENSE AT THIS POINT IN TIME, UNDER THE PROVISIONS OF SECTION 192A. OF THE ATOMIC ENERGY ACT, HAD THAT AUTHORITY BEEN EXTENDED AS THE COMMISSION REQUESTED.

ANSWER.

SECTION 192A OF THE ACT, PRIOR TO ITS EXPIRATION, PROVIDED THAT AN APPLICANT FOR AN OPERATING LICENSE WHO IS FACING A HEARING ON ITS APPLICATION MAY PETITION THE COMMISSION FOR A TEMPORARY OPERATING LICENSE, INITIALLY FOR FUEL LOADING, TESTING AND OPERATION AT A SPECIFIC POWER LEVEL TO BE DETERMINED BY THE COMMISSION NOT TO EXCEED 5 PERCENT OF RATED FULL THERMAL POWER. SUBSEQUENT PETITIONS COULD HAVE BEEN FILED TO REQUEST OPERATION IN STAGED INCREASES, DETERMINED BY THE COMMISSION, EXCEEDING 5 PERCENT OF RATED FULL THERMAL POWER.

THE INITIAL PETITION FOR A TEMPORARY OPERATING LICENSE COULD HAVE BEEN FILED AFTER THE FILING OF THE FOLLOWING:

(1) THE REPORT OF THE ADVISORY COMMITTEE ON REACTOR SAFEGUARDS REQUIRED BY SECTION 182B;

(2) THE FILING OF THE SAFETY EVALUATION REPORT BY THE NUCLEAR REGULATORY COMMISSION STAFF AND THE NUCLEAR REGULATORY COMMISSION STAFF'S FIRST SUPPLEMENT TO THE REPORT PREPARED IN RESPONSE TO THE REPORT OF THE ADVISORY COMMITTEE ON REACTOR SAFEGUARDS FOR THE FACILITY;

(3) THE NUCLEAR REGULATORY COMMISSION STAFF'S FINAL DETAILED STATEMENT ON THE ENVIRONMENTAL IMPACT OF THE FACILITY PREPARED PURSUANT TO SECTION 102(2)(C) OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (42 U.S.C. 4332(2)(C)) AND;

(4) A STATE, LOCAL, OR UTILITY EMERGENCY PREPAREDNESS PLAN FOR THE FACILITY.

ON THE ABOVE BASES, THE APPLICANTS FOR BOTH SHOREHAM AND COMANCHE PEAK, HAVING MET ALL FOUR OF THESE PRECONDITIONS, WOULD HAVE BEEN ELIGIBLE TO FILE FOR A TEMPORARY OPERATING LICENSE AT THIS TIME IF THE AUTHORITY OF SECTION 192A HAD BEEN EXTENDED. LIMERICK CURRENTLY HOLDS A 5 PERCENT POWER (LOW POWER) LICENSE. LIMERICK WAS ISSUED A LICENSE LIMITED TO 5 PERCENT POWER WITHOUT ANY LICENSING DELAY. PROJECTED LICENSING DELAYS ASSOCIATED WITH LIMERICK TODAY ARE RELATED TO AUTHORITY TO OPERATE AT POWER LEVELS ABOVE 5 PERCENT POWER.

(B) FOR COMMISSIONER ASSELSTINE: YOU NOTE THAT "IN EACH OF THE CASES IDENTIFIED IN THIS REPORT THE ADDITIONAL TIME IS NEEDED FOR EITHER THE COMMISSION, THE NRC STAFF, OR THE BOARDS TO ADDRESS OUTSTANDING SAFETY ISSUES FOR THE PLANTS. [YOU DO] NOT BELIEVE THAT THE TIME NEEDED TO ADDRESS OUTSTANDING SAFETY ISSUES CAN PROPERLY BE CHARACTERIZED AS A 'LICENSING DELAY'."

ARE THERE ANY INSTANCES IN WHICH THE COMMISSION, THE NRC STAFF, AND THE BOARDS WOULD HAVE ADDRESSED ALL OUTSTANDING SAFETY ISSUES FOR A PLANT, (I.E., MADE THE FINDING REQUIRED BY SECTION 185), BUT WOULD NOT HAVE ACTUALLY ISSUED AN OPERATING LICENSE TO AN APPLICANT? IF SO, PLEASE IDENTIFY THOSE SITUATIONS. IF NOT, UNDER WHAT CIRCUMSTANCES, IN YOUR JUDGMENT, WOULD A TEMPORARY OPERATING LICENSE EVER BE APPROPRIATE TO ISSUE?

ANSWER.

IN THE CASE OF THOSE PLANTS LISTED IN THE COMMISSION'S FEBRUARY 1, 1985 REPORT TO CONGRESSMAN BEVILL, I DO NOT BELIEVE THAT THE COMMISSION, THE STAFF AND THE BOARDS HAVE YET RESOLVED ALL

OUTSTANDING SAFETY ISSUES FOR THE PLANTS INCLUDING THE ISSUE OF EMERGENCY PLANNING ADEQUACY.

THERE COULD BE A FUTURE CASE IN WHICH ALL OUTSTANDING SAFETY ISSUES HAVE BEEN RESOLVED, BUT IN WHICH THE FAILURE TO RESOLVE ALL OUTSTANDING ENVIRONMENTAL ISSUES WOULD DELAY ISSUANCE OF AN OPERATING LICENSE. ENVIRONMENTAL ISSUES ARE OCCASIONALLY LITIGATED IN OPERATING LICENSE PROCEEDINGS, ALTHOUGH I AM NOT AWARE OF A CASE IN RECENT YEARS IN WHICH THE LITIGATION OF AN ENVIRONMENTAL ISSUE ALONE HAS DELAYED ISSUANCE OF AN OPERATING LICENSE. I WOULD CONSIDER THE USE OF TEMPORARY LICENSE AUTHORITY TO BE MORE JUSTIFIED IN SUCH A CASE THAN IN THE CASES WHERE THERE ARE OUTSTANDING SAFETY ISSUES STILL IN LITIGATION.

I CONTINUE TO BELIEVE THAT GRANTING THE COMMISSION FURTHER TEMPORARY OPERATING LICENSE AUTHORITY IS BOTH UNNECESSARY AND UNWISE. I DO NOT SEE CASES IN WHICH THE ONLY OUTSTANDING ISSUES ARE ENVIRONMENTAL ONES, AND IN CASES WHERE THE OUTSTANDING ISSUES ARE SAFETY ISSUES, I BELIEVE THAT THE ISSUANCE OF AN OPERATING LICENSE SHOULD AWAIT THE RESOLUTION OF THOSE ISSUES.

QUESTION 20. IF THE RECENT DECISION IN BROWN & ROOT, INC. V. DONOVAN WERE TO BE AFFIRMED AS THE GOVERNING INTERPRETATION OF SECTION 210 OF THE ENERGY REORGANIZATION ACT, WHAT OPTIONS ARE AVAILABLE TO THE COMMISSION, WITHIN ITS EXISTING LEGISLATIVE AUTHORITY, TO ADDRESS THE CONCERNS THAT HAVE BEEN RAISED BY THE COMMISSION ABOUT THIS DECISION?

ANSWER.

IN BROWN & ROOT, INC. V. DONOVAN, 747 F.2D 1029 (1984), A PANEL OF THE FIFTH CIRCUIT COURT OF APPEALS HELD THAT SECTION 210 OF THE ENERGY REORGANIZATION ACT OF 1974, AS AMENDED, 42 U.S.C. §5851, DID NOT PROTECT A QUALITY CONTROL ("QC") INSPECTOR FROM EMPLOYEE RETALIATION DUE TO HIS FILING OF INTERNAL REPORTS OF CONSTRUCTION DEFICIENCIES AT A NUCLEAR POWER PLANT UNDER CONSTRUCTION, BECAUSE HE DID NOT ALSO REPORT THOSE CONCERNS TO NRC. THE COMMISSION BELIEVES THE BROWN & ROOT DECISION TO BE LEGALLY INCORRECT. IN A SIMILAR CASE CURRENTLY PENDING BEFORE THE TENTH CIRCUIT COURT OF APPEALS, THE COMMISSION RECENTLY FILED AN AMICUS BRIEF URGING THAT COURT REJECT THE BROWN & ROOT HOLDING. KANSAS GAS & ELECTRIC COMPANY V. DONOVAN, ET AL., NO. 84-2114. A COPY OF THE COMMISSION'S AMICUS BRIEF IS ENCLOSED.* IN ITS AMICUS BRIEF FILED WITH THE TENTH CIRCUIT, THE COMMISSION IDENTIFIED AND DISCUSSED THREE DELETERIOUS CONSEQUENCES TO ITS REGULATORY AND LICENSING PROGRAM SHOULD THE BROWN & ROOT RESULT BE ADOPTED GENERALLY.

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*Retained in committee files.

AMICUS BRIEF AT 11-16. THE COMMISSION'S FIRST CONCERN FOCUSED ON THE POSSIBLE IMPACT OF BROWN & ROOT DECISION ON THE EFFICACY OF QA PROGRAMS MAINTAINED BY LICENSEES IN COMPLIANCE WITH 10 CFR PART 50, APPENDIX B. THE COMMISSION'S SECOND CONCERN RELATED TO THE ADDITIONAL DEMANDS ON THE NRC'S LIMITED RESOURCES OCCASIONED BY THE NEED FOR NRC INVESTIGATION AND RESOLUTION OF EMPLOYEE-MANAGEMENT DISPUTES OUTSIDE THE TRADITIONAL EXPERTISE OF THE AGENCY. THE COMMISSION'S THIRD CONCERN DEALT WITH THE LIKELY DELAY IN THE COMMISSION'S OPERATING LICENSE PROCEEDINGS DUE TO THE INTRODUCTION OF ADDITIONAL ISSUES FOR ADJUDICATION.

AS TO ITS FIRST CONCERN, THE COMMISSION BELIEVES THAT THE ATOMIC ENERGY ACT OF 1954, AS AMENDED, AND ITS CURRENT REGULATIONS, PARTICULARLY CRITERION I OF APPENDIX B, PROVIDE SUFFICIENT AUTHORITY TO REMEDY GENERAL BREAKDOWNS IN A LICENSEES QUALITY ASSURANCE (QA) PROGRAM. HOWEVER, SHOULD THE BROWN & ROOT DECISION BE AFFIRMED AS THE GOVERNING INTERPRETATION OF SECTION 210, THERE WOULD BE NO CLEAR MECHANISM TO PROVIDE INDIVIDUAL REMEDIES IN THE FORM OF BACKPAY AND/OR REINSTATEMENT TO VICTIMS OF RETALIATION. ALTHOUGH THE COMMISSION HAS NOT INITIATED AN IN-DEPTH ANALYSIS AND EVALUATION OF ALL POSSIBLE OPTIONS IN RESPONDING TO ITS FIRST CONCERN, TWO ALTERNATIVES ARE POSSIBLE. FIRST, AND ASSUMING THAT THE COMMISSION DETERMINES THAT IT HAS THE LEGAL AUTHORITY TO DO SO, A RULEMAKING COULD BE INITIATED UNDER SECTION 161 OF THE ATOMIC ENERGY ACT, 42 U.S.C. § 2201(P), TO ADMINISTRATIVELY CREATE

A REGULATORY REQUIREMENT, INDEPENDENT OF SECTION 210, PROHIBITING RETALIATION AGAINST EMPLOYEES WHO FILE INTERNAL REPORTS OF CONSTRUCTION OR OPERATION DEFICIENCIES, AND PROVIDE AN NRC MECHANISM THROUGH WHICH EMPLOYEES COULD RECEIVE INDIVIDUAL REMEDIES. THIS WOULD REQUIRE AMENDMENT OF 10 CFR 50.7 AND RELATED REGULATORY PROVISIONS TO REMOVE ALL REFERENCE TO SECTION 210, TO CLARIFY THE SCOPE OF THAT SECTION'S PROTECTIONS BEYOND THOSE AVAILABLE UNDER SECTION 210, AND TO PROVIDE FOR INDIVIDUAL REMEDIES. SECOND, THE COMMISSION COULD BROADEN THE SCOPE OF 50.7 AND RELATED REGULATORY PROVISIONS TO CLARIFY ITS EXISTING ENFORCEMENT POLICY (10 CFR PART 2, APPENDIX C) TO PROVIDE THAT APPROPRIATE CORRECTIVE ACTION BY A LICENSEE WITH RESPECT TO AN EMPLOYEE RETALIATED AGAINST WILL BE A MITIGATING FACTOR IN THE AMOUNT OF ANY CIVIL PENALTY ULTIMATELY IMPOSED. PENDING SUCH RULEMAKING, THE COMMISSION COULD CONTINUE, IN THE AREA OF REACTORS, TO TAKE APPROPRIATE ENFORCEMENT ACTIONS UNDER 10 CFR PART 50, APPENDIX B, CRITERION I. SHOULD IT BECOME NECESSARY, THE COMMISSION INTENDS TO EXPLORE THE TWO ALTERNATIVES NOTED ABOVE AND OTHER POSSIBLE OPTIONS IN MORE DEPTH. BOTH THE SECOND AND THIRD CONCERNS ARTICULATED BY THE COMMISSION ARE BASED ON BUDGETARY, RESOURCES OR ADJUDICATORY REQUIREMENTS NOT READILY AMENABLE TO SOLUTION BY THE NRC.

QUESTION 21. WHAT GENERIC STANDARDS HAVE BEEN ESTABLISHED BY THE COMMISSION FOR DETERMINING WHETHER A "MATERIAL FALSE STATEMENT" HAS BEEN MADE TO THE COMMISSION? FOR EACH OF THE FISCAL YEARS 1980-1985, IDENTIFY THE NUMBER OF MATERIAL FALSE STATEMENT CASES CONSIDERED BY THE COMMISSION, AND THE NUMBER OF TIMES THE COMMISSION HAS MET TO DISCUSS THE "MATERIAL FALSE STATEMENT" ISSUE IN THE CONTEXT OF AN INDIVIDUAL CASE.

ANSWER.

THE STANDARD ESTABLISHED BY THE COMMISSION FOR DETERMINING WHETHER A MATERIAL FALSE STATEMENT HAS BEEN MADE IS SET FORTH IN THE COMMISSION'S DECISION IN VIRGINIA ELECTRIC & POWER CO. (NORTH ANNA POWER STATION, UNITS 1 & 2), CLI-76-22, 4 NRC 480 (1976); AFF'D, VIRGINIA ELECTRIC & POWER CO. V. U.S. N.R.C., 571 F.2D 1289 (4TH CIR. 1978). IN ADDITION, IN ITS "GENERAL STATEMENT OF POLICY AND PROCEDURE FOR ENFORCEMENT ACTIONS", 10 CFR PART 2, APPENDIX C, AS AMENDED 49 FR 8583 (MARCH 8, 1984), THE COMMISSION HAS ESTABLISHED IN SUPPLEMENT VII GUIDELINES FOR DETERMINING ENFORCEMENT SANCTIONS FOR MATERIAL FALSE STATEMENTS.

THE FOLLOWING NUMBER OF MATERIAL FALSE STATEMENT CASES HAVE BEEN CONSIDERED SINCE FY 1980.

QUESTION 21. - 2 -

FY 1980	2	
FY 1981	1	
FY 1982	3	
FY 1983	3	
FY 1984	6	
FY 1985	2	(2 ADDITIONAL CASES PENDING)

THE STAFF HAS MET WITH THE COMMISSION TO DISCUSS 5 INDIVIDUAL CASES INCLUDING THE 2 PENDING CASES. PAPERS DISCUSSING THE CASES WERE SENT TO THE COMMISSION FOR 15 INDIVIDUAL CASES.

QUESTION 22. (A) PLEASE EXPLAIN YOUR VIEW AS TO THE OBLIGATIONS OF THE COMMISSION PURSUANT TO SECTION 102(C) OF PUBLIC LAW 98-553, AUTHORIZING APPROPRIATIONS TO THE NUCLEAR REGULATORY COMMISSION FOR FISCAL YEARS 1984 AND 1985. UNDER WHAT CIRCUMSTANCES WOULD THE COMMISSION BE OBLIGED TO REPORT TO THE AUTHORIZING COMMITTEES PRIOR TO REPROGRAMMING FUNDS UNDER THIS PROVISION?

ANSWER.

IT IS OUR VIEW THAT PURSUANT TO SECTION 102(C) OF P.L. 98-553, THE NRC WOULD BE OBLIGATED TO REQUEST REPROGRAMMING APPROVAL FROM THE HOUSE COMMITTEES ON ENERGY AND COMMERCE, AND INTERIOR AND INSULAR AFFAIRS; AND SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE, WHEN THE AGENCY DETERMINES A REQUIREMENT TO CHANGE BY MORE THAN $500,000 THE PROGRAM FUNDING LEVELS AS REPORTED TO CONGRESS IN OUR INITIAL BASE TABLE, WHICH REFLECTS FINAL CONGRESSIONAL ACTION ON NRC APPROPRIATIONS, OR IN OUR LATEST REVISED BASE TABLE.

(B) WHAT REPROGRAMMING ACTIONS ARE REQUIRED, PURSUANT TO THIS PROVISION, TO ADJUST THE LEVELS OF FUNDING AUTHORIZED IN P.L. 98-553 TO THE LEVELS REFLECTED IN THE COMMISSION'S CURRENT REVISED BASE FOR FISCAL YEAR 1985?

ANSWER.

NO REPROGRAMMING ACTIONS WERE REQUIRED FOR THE FY 1985 INITIAL BASE TABLE REALLOCATIONS AS REPORTED TO CONGRESS SINCE THESE ESTABLISHED EACH PROGRAM'S ADJUSTED FY 1985 APPROPRIATED LEVEL AS A BASELINE FOR SUBSEQUENT REPROGRAMMING PER SECTION 102(C) OF P.L. 98-553.

(c) IN THE HYPOTHETICAL EVENT THAT THE CONGRESS AUTHORIZES AND APPROPRIATES THE EXACT TOTAL AMOUNT REQUESTED BY THE COMMISSION FOR A GIVEN FISCAL YEAR, BUT MODIFIES THE FUNDING LEVELS REQUESTED BY THE COMMISSION FOR INDIVIDUAL PROGRAM OFFICES BY AMOUNTS EXCEEDING $500,000, IS THE COMMISSION UNDER AN OBLIGATION TO REPROGRAM FUNDS PURSUANT TO THIS PROVISION IF THE COMMISSION WISHES TO ALLOCATE FUNDS TO THESE INDIVIDUAL PROGRAM OFFICES IN ACCORDANCE WITH THE COMMISSION'S INITIAL REQUEST?

ANSWER.

YES, THE NRC WOULD BE REQUIRED TO REQUEST REPROGRAMMING APPROVAL GIVEN THE CONDITIONS OF THE HYPOTHETICAL EVENT DESCRIBED IN THE QUESTION.

QUESTION 23: PLEASE SUMMARIZE THE STATUS OF THE COMMISSION'S ADVANCED REACTOR LICENSING POLICY.

ANSWER:

IN EARLY MARCH 1985, THE COMMISSION APPROVED A POLICY STATEMENT REGARDING ADVANCED REACTORS. THIS POLICY STATEMENT HAS BEEN PRINTED IN THE FEDERAL REGISTER [50 FR 11882] FOR SOLICITATION OF PUBLIC COMMENTS. THE BASIC INTENT OF THE POLICY STATEMENT IS TO ENCOURAGE EARLY INTERACTION BETWEEN THE COMMISSION AND ADVANCED REACTOR DESIGNERS AND TO ENCOURAGE THE DEVELOPMENT OF ADVANCED REACTOR DESIGNS WITH GREATER INHERENT SAFETY CHARACTERISTICS. SUCH A POLICY SHOULD CONTRIBUTE TOWARD MINIMIZING COMPLEXITY AND ADDING STABILITY AND PREDICTABILITY IN THE LICENSING OF ADVANCED REACTORS BY PROVIDING LICENSING GUIDANCE ON ADVANCED DESIGNS AND THEIR SAFETY ISSUES EARLY IN THE DESIGN PROCESS.

ADDITIONALLY, THE COMMISSION HAS ESTABLISHED AN ADVANCED REACTORS GROUP WITHIN THE OFFICE OF NUCLEAR REACTOR REGULATION TO BE THE FOCAL POINT FOR IMPLEMENTATION OF THE POLICY. THIS GROUP HAS HAD PRELIMINARY DISCUSSIONS WITH THE DEPARTMENT OF ENERGY AND OTHER ADVANCED REACTOR DESIGNERS ON THEIR DESIGNS AND IS CURRENTLY IN THE PROCESS OF WORKING WITH THEM ON A PLAN FOR FUTURE INTERACTIONS ON ADVANCED REACTORS.

QUESTION 24. PLEASE SUMMARIZE THOSE ISSUES THAT THE COMMISSION HAD INTENDED TO ADDRESS IN ITS "DEFERRED PLANTS INITIATIVE".

ANSWER.

THE COMMISSION HAS DIRECTED THE STAFF TO CONSIDER THE LEGAL AND TECHNICAL RAMIFICATIONS SHOULD A UTILITY DESIRE TO REACTIVATE A PROJECT AFTER CONSTRUCTION AND LICENSING HAS STOPPED. BY THE END OF 1985, THE STAFF IS TO HAVE PROCEDURES FOR PROCEEDING WITH SUCH PROJECTS, AND BY FY 1987, BE PREPARED TO DEAL WITH THE RESTORATION OF CONSTRUCTION ON DEFERRED PLANTS.

QUESTION 25. PLEASE SUMMARIZE ALL ACTIONS TAKEN TO IMPLEMENT THE NRC AUTHORIZATION ACT FOR FISCAL YEARS 1984 AND 1985 (P.L. 98-553).

ANSWER.

THE FOLLOWING SUMMARIZES ACTIONS TAKEN BY THE NRC TO IMPLEMENT PUBLIC LAW 98-553, THE NRC AUTHORIZATION ACT FOR FISCAL YEARS 1984 AND 1985.

P.L. 98-553 REFERENCE	ACTION TAKEN
SECTION 102, AUTHORIZATION LIMITATIONS, GRANT LIMITATIONS, AND REPROGRAMMING.	BASED ON THE NRC FY 1985 APPROPRIATIONS ACT (P.L. 98-360) NRC ALLOCATED THE APPROPRIATED FUNDING TO EACH OF THE PROGRAMS TO ESTABLISH THE INITIAL BASE TABLE WHICH WAS REPORTED TO CONGRESS. THE INITIAL BASE TABLE ESTABLISHED THE BASELINE FOR SUBSEQUENT REPROGRAMMING REQUESTS AND/OR REVISED BASE TABLES

P.L. 98-553 Reference	Action Taken
Section 102 (Continued)	to be reported to Congress. Based on these allocations NRC issued Financial Plans and Allotments which included appropriate limitations language on the use of these funds. On March 20, 1985, NRC submitted a Reprogramming Request to Congress. Procedures for implementing limitations in the use of funds for grants have been incorporated in an NRC Manual Chapter.

P.L. 98-553 Reference	Action Taken
Section 103, Authority to retain certain amounts received.	The cooperative Nuclear Research Program has been in place since 1976. The material access authorization program was established by P.L. 97-415. The procedures for use of a deposit fund account with Treasury were accomplished in February 1983.
Section 104, Authority to transfer certain amounts to other agencies.	Thus far, there has been no requirement to exercise this authority.
Section 105, Limitation Spending Authority	No action necessary since NRC appropriation act was passed before Authorization Act.

P.L. 98-553 REFERENCE	ACTION TAKEN
SECTION 106, LIMITATION ON USE OF FUNDS FOR DECENTRALIZATION OR REGIONALIZATION WITH REGARD TO COMMERCIAL NUCLEAR POWER PLANT LICENSING.	NO ADDITIONAL DECENTRALIZATION WITH REGARD TO COMMERICAL NUCLEAR POWER PLANT LICENSING HAS BEEN INITIATED SINCE SEPTEMBER 22, 1983. THE NRC INITIATED A TWO YEAR PILOT PROGRAM IN 1984, AS DESCRIBED IN NUREG-1075, TO EVALUATE THE CONCEPT OF DELEGATING AUTHORITY TO REGIONAL OFFICES FOR ISSUANCE OF SPECIFIC TYPES OF LICENSING ACTIONS.

QUESTION 25.

P.L. 98-553 REFERENCE	ACTION TAKEN
SECTION 107, LIMITATION ON USE OF FUNDS FOR ACQUISITION AND INSTALLATION OF EQUIPMENT FOR THE SMALL TASK PROTOTYPE NUCLEAR DATA LINK OR SIMILAR PROGRAM.	IN DEVELOPING THE CONCEPTS FOR SATISFYING NRC'S NEED FOR DATA DURING AN EMERGENCY, SEVERAL OPTIONS WERE CONSIDERED, INCLUDING A FULLY AUTOMATIC ELECTRONIC TRANSMISSION OF DATA. BASED ON AN EVALUATION OF THE NRC'S ROLE AND FUNCTIONS DURING A RADIOLOGICAL EMERGENCY, STAFF HAS PROPOSED TO THE COMMISSION AN OPTION THAT WOULD OBTAIN NRC'S NEEDED DATA FROM EXISTING ELECTRONIC DATA SYSTEMS. THE COMMISSION WILL BE REPORTING TO ITS CONGRESSIONAL OVERSIGHT COMMITTEES IN THE NEAR FUTURE ON THESE EFFORTS TO UPGRADE NRC'S TECHNICAL DATA ACQUISITION CAPABILITIES FOR RESPONSE TO EMERGENCIES.

QUESTION 25.

P.L. 98-553 REFERENCE	ACTION TAKEN
SECTION 108, NRC AUTHORITY TO ISSUE NUCLEAR POWER PLANT OPERATING LICENSE IN ABSENCE OF STATE OF LOCAL FEMA APPROVEDEMERGENCY PREPAREDNESS PLAN.	NRC HAS NOT ISSUED ANY NUCLEAR POWER PLANT OPERATING LICENSES UNDER THIS AUTHORITY.
SECTION 109, NRC AUTHORITY TO TRANSFER FACILITY OPERATING LICENSE NUMBERED R-81.	NRC HAS RECEIVED AN APPLICATION TO TRANSFER FACILITY OPERATING LICENSE NUMBERED R-81. THIS APPLICATION IS UNDER REVIEW.

QUESTION 26. PLEASE SUMMARIZE ALL ACTIONS (I) TAKEN IN FISCAL YEARS 1984 AND 1985 AND (II) PLANNED FOR FISCAL YEARS 1986 AND 1987, TO IMPLEMENT THE NUCLEAR WASTE POLICY ACT OF 1982 (P.L. 97-425).

ANSWER.

THE ATTACHMENT TO OUR RESPONSE TO QUESTION #6 PROVIDES A SUMMARY OF ALL NRC ACTIONS TO IMPLEMENT THE NUCLEAR WASTE POLICY ACT OF 1982. IT SUMMARIZES ALL ACTIONS TAKEN SINCE 1983, AND PROVIDES THE CURRENT SCHEDULE FOR THE REMAINING ACTIONS, INCLUDING FY86 AND FY87.

QUESTION 27. PLEASE PROVIDE YOUR VIEWS ON THE ISSUES DISCUSSED AND THE RECOMMENDATION MADE IN A LETTER FROM CHAIRMAN NUNZIO J. PALLADINO, TO CONGRESSMAN TOM BEVILL, DATED JANUARY 23, 1985.

ANSWER.

COMMISSIONER ROBERTS' VIEWS ON THE ABOVE QUESTION ARE PROVIDED BELOW:

SUNSHINE ACT

BASED ON THE SUPREME COURT'S DECISION IN FCC V. ITT WORD COMMUNICATIONS WE ARE ISSUING PROPOSED CHANGES TO NRC RULES IMPLEMENTING THE SUNSHINE ACT. I BELIEVE THAT THESE CHANGES WILL ELIMINATE MANY OF THE RESTRICTIONS IMPOSED ON DISCUSSIONS AMONG COMMISSIONERS BY THE AGENCY'S HAVING GONE FURTHER THAN THE LAW APPARENTLY REQUIRES IN ORIGINALLY DEFINING THE TERM "MEETING" IN ITS RULES.

EX PARTE

SO LONG AS THE AGENCY CHOOSES TO ASSUME THAT ITS ADJUDICATION MUST BE DETERMINED "ON THE RECORD" AFTER AN OPPORTUNITY FOR HEARING THAT THE "INITIAL LICENSE" EXCEPTION TO 5 USC 554(D) SHOULD NOT BE RECOGNIZED AND THAT INVESTIGATING AND PROSECUTING

FUNCTIONS ENCOMPASS ADVOCACY BY OUR REGULATORY STAFF OF POSITIONS IN LICENSING PROCEEDINGS, THE "EX PARTE" PROVISIONS OF 5 USC 557(D) AND THE "SEPARATION OF FUNCTIONS" PROVISIONS OF 5 USC 554(D) WILL BE INTERPRETED AS RESTRICTING OFF-THE-RECORD COMMUNICATIONS BETWEEN THOSE OF OUR REGULATORY STAFF WHO ARE INVOLVED IN LICENSING REVIEWS AND THE COMMISSION OR ITS ADVISORS. HOWEVER, EVEN ASSUMING THE STATUTE APPLIES, OUR PRESENT RULES IMPLEMENTING THE EX PARTE AND SEPARATION OF FUNCTIONS PROVISION OF THE ADMINISTRATIVE PROCEDURE ACT ARE MORE RESTRICTIVE THAN THE LAW REQUIRES, AND I SUPPORT THE EFFORTS CURRENTLY UNDERWAY IN THE AGENCY TO MODIFY OUR RULES TO ALLOW US TO COMMUNICATE WITH OUR REGULATORY STAFF TO THE MAXIMUM EXTENT ALLOWED UNDER THE STATUTE.

SINGLE ADMINISTRATOR

ALTHOUGH I SUPPORT THE CONCEPT OF THE SINGLE ADMINISTRATOR, I BELIEVE THE NRC'S INABILITY TO ACT DECISIVELY STEMS FROM ITS LACK OF A WELL DEFINED MANDATE BEYOND THE VAGUE ONE OF PROTECTING THE PUBLIC'S HEALTH AND SAFETY. THIS VAGUENESS FREES INDIVIDUAL COMMISSIONERS TO INTERPRET WHAT THIS GENERAL MANDATE MEANS IN OPERATIONAL TERMS, WITH THE POTENTIAL OF COMMISSIONER'S WORKING AT CROSS-PURPOSES FROM EACH OTHER. THUS, I BELIEVE CONGRESSIONAL ACTION IS NEEDED WHETHER IN SUPPORT OF RESTRUCTURING THE NRC OR IN PROVIDING MORE SPECIFIC FUNCTIONAL GUIDANCE VIS-A-VIS OUR MANDATE.

LEGISLATIVE SUPPORT FOR CONSOLIDATION

I CONTINUE TO BELIEVE THAT CONSOLIDATION COULD SOLVE SOME OF OUR ORGANIZATIONAL PROBLEMS. IN THIS REGARD, EVEN IN THIS TIME OF BUDGETARY AUSTERITY, I HAVE SUPPORTED THE RETENTION OF FUNDS IN OUR FY 86 BUDGET FOR CONSOLIDATION OF NRC OFFICES. IT IS MY UNDERSTANDING THAT GSA HAS SUBMITTED A LEASE CONSOLIDATION PROSPECTUS TO THE SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE WHICH WILL ENABLE NRC CONSOLIDATION. I URGE SUPPORT OF THIS CONSOLIDATION PROPOSAL.

COMMISSIONER ASSELSTINE'S VIEWS ON THE ABOVE QUESTIONS ARE PROVIDED BELOW:

I DO NOT SEE A BASIS IN THE CHAIRMAN'S LETTER AND REPORT FOR MAJOR CHANGES TO THE AGENCY'S STRUCTURE. ALTHOUGH I CAN SYMPATHIZE WITH THE FRUSTRATIONS THE CHAIRMAN MAY FACE AS THE HEAD OF A MULTI-MEMBER AGENCY, THE ITEMS LISTED IN HIS LETTER AND REPORT AS JUSTIFICATIONS FOR A SINGLE ADMINISTRATOR FORM OF MANAGEMENT ARE REALLY NOTHING MORE THAN MINOR IRRITANTS. IN MY VIEW, SUCH ITEMS AS COORDINATING TRAVEL SCHEDULES, COORDINATING RESPONSE TO CORRESPONDENCE, COORDINATING VIEWS ON THE BUDGET AND REACHING AGREEMENT ON THE SELECTION OF APPOINTMENTS FOR THE HANDFUL OF POSITIONS FOR WHICH THE FULL COMMISSION HAS HIRING AUTHORITY DO NOT PROVIDE A STRONG JUSTIFICATION FOR DEPARTING FROM THE COMMISSION FORM OF OPERATION.

MOREOVER, I HAVE TO SAY THAT I BELIEVE THE CHAIRMAN'S REPORT IS INACCURATE IN A NUMBER OF SIGNIFICANT RESPECTS. IT IS INCORRECT TO SAY THAT THE CHAIRMAN AND NOT THE INDIVIDUAL COMMISSIONERS, IS HELD ACCOUNTABLE FOR AGENCY ACTIONS. NOR IS IT ACCURATE TO ATTRIBUTE ALL DELAYS IN ANSWERING CORRESPONDENCE TO THE NEED TO COORDINATE DIFFERENT COMMISSIONER VIEWS OR TO WAIT FOR ADDITIONAL OR DISSENTING REMARKS FROM ONE OR MORE COMMISSIONERS. IN FACT, THERE IS LITTLE DELAY IN ANSWERING MOST CORRESPONDENCE AT THIS TIME, AND WHAT DELAY THERE IS CAN BE LARGELY ATTRIBUTED TO THE CHAIRMAN'S REVIEW OF THE CORRESPONDENCE BEFORE OTHER COMMISSIONERS EVER SEE THE PREPARED RESPONSE. I AM NOT AWARE OF ANY SIGNIFICANT RECENT INSTANCES IN WHICH INDIVIDUAL COMMISSIONERS HAVE ATTEMPTED TO DIRECT THE WORK OF THE OPERATING STAFF WITHOUT GOING THROUGH THE CHAIRMAN OR THE EXECUTIVE DIRECTOR FOR OPERATIONS. AND THERE IS NOTHING TO PREVENT THE CHAIRMAN FROM PROVIDING HIS OWN INDIVIDUAL COMMENTS IN CONGRESSIONAL TESTIMONY, JUST AS OTHER COMMISSIONERS NOW DO. IN FACT, THE CHAIRMAN DID THIS IN HIS RECENT BUDGET TESTIMONY BEFORE THE AUTHORIZING AND APPROPRIATIONS COMMITTEES. IN SUM, I FIND THE CHAIRMAN'S REPORT TO BE INACCURATE IN MANY RESPECTS, OF GENERALLY POOR QUALITY, AND UNPERSUASIVE AS A BASIS FOR MAKING MAJOR CHANGES TO THE AGENCY'S STRUCTURE AND ORGANIZATION.

I FIND IT DISTURBING THAT MORE THAN $10,000 OF THE TAXPAYERS' MONEY WAS SPENT ON THE PREPARATION OF SUCH A POOR QUALITY REPORT.

COMMISSIONER BERNTHAL'S VIEWS ON THE ABOVE QUESTIONS ARE PROVIDED BELOW:

THE REORGANIZATION PLAN NO. 1 OF 1980 DID NOT, IN MY JUDGMENT, CONFER SIGNIFICANT NEW AUTHORITY ON THE CHAIRMAN. IN FACT IT DID LITTLE MORE THAN OCCASIONALLY TO PLACE THE CHAIRMAN AS MANAGER IN DIRECT EX PARTE CONFLICT WITH HIMSELF, THE CHAIRMAN AS ADJUDICATOR, AND THUS INHERENTLY AT ODDS WITH THE PROVISIONS OF THE ADMINISTRATIVE PROCEDURES ACT ON MATTERS UNDER COMMISSION ADJUDICATION (CF. ALSO MY MEMORANDUM TO THE COMMISSION OF DECEMBER 5, 1984, ATTACHED).

HAVING SAID THAT, HOWEVER, I DO NOT BELIEVE THAT MOST OF THE AGENCY'S MANAGEMENT TROUBLES ARISE EITHER FROM THE CONSTRAINTS OF LAW, OR FROM A FRACTIOUS AND UNCOOPERATIVE COMMISSION. NOR DO I BELIEVE THAT THE FULL AUTHORITIES OF THE CHAIRMAN, LIMITED THOUGH THEY MAY BE UNDER CURRENT LAW, HAVE THUS FAR BEEN EXERCISED AND TESTED. THERE IS LITTLE QUESTION THAT THE LAW COULD BE CHANGED TO DIMINISH SIGNIFICANTLY (OR EVEN ELIMINATE ENTIRELY, AS SOME HAVE PROPOSED) THE ROLE OF EACH COMMISSIONER, AND THEREBY ENHANCE THE AUTHORITY OF THE CHAIRMAN. BUT SUCH PROPOSALS ARE AT HEART ONLY VARIANTS ON THE SINGLE ADMINISTRATOR CONCEPT; THE ARGUMENTS FOR AND AGAINST THAT CONCEPT ARE WELL KNOWN. THE REQUEST FROM MR. BEVILL WAS TO EXAMINE THE CHAIRMAN'S AUTHORITY UNDER THE REORGANIZATION PLAN OF 1980.

I HAVE LONG FELT THAT THE CHAIRMAN COULD AND SHOULD SET HIMSELF APART FROM THE COMMISSION ITSELF, MUCH AS A CHAIRMAN OF THE BOARD IS DISTINGUISHED FROM THE MEMBERS OF THE BOARD OF A CORPORATION. INSTEAD, THE CHAIRMAN OF THE NRC (WHOEVER HE HAS BEEN) HAS ALWAYS VIEWED HIMSELF AS ONLY ONE OF FIVE; HE HAS RARELY CIRCULATED DOCUMENTS AS PROPOSALS OF THE CHAIRMAN HIMSELF, SOLICITING COMMISSION APPROVAL. HE MAY VOTE FIRST, SECOND, OR LAST ON ANY PROPOSAL, JUST AS MAY ANY OTHER COMMISSIONER. DOCUMENTS FOR COMMISSION ACTION (EVEN DOCUMENTS AS TRIVIAL AS COMMISSION CORRESPONDENCE, WHICH THE CHAIRMAN IS BY STATUTE EMPOWERED TO EXECUTE) ARE MOST USUALLY CIRCULATED, NOT AS CHAIRMAN'S PROPOSALS TO HIS "BOARD", BUT AS THE PROPOSAL OF OGC, OPE, EDO, OR SOME OTHER AGENCY OFFICER.

IN PARTICULAR, IF THE CHAIRMAN WERE ALWAYS TO PROPOSE AND, ABSENT A DISSENTING MAJORITY OF THE COMMISSION, TO DISPOSE OF ISSUES, THE PERCEPTION (AND OVER TIME, THE SUBSTANCE) OF THE ROLE OF THE CHAIRMAN WOULD, I BELIEVE, CHANGE SIGNIFICANTLY. THE CHAIRMAN SHOULD ALWAYS BE THE "SWING" VOTE, AND ASSUME THE RESPONSIBILITY (AND BLAME) THAT GOES WITH THAT FUNCTION. THE FOCUS OF THE PUBLIC AND THE COMMISSIONERS THEMSELVES SHOULD BE ON THE CHAIRMAN AS THE ULTIMATE DECISION-MAKER, IN THE ABSENCE OF A DISSENTING MAJORITY OF HIS "BOARD", THE COMMISSION. THE CHAIRMAN SHOULD BE PROPOSER AND ADVOCATE TO THE COMMISSION, IN THE HOPE OF WINNING A MAJORITY OF THE COMMISSION TO SUPPORT (OR AT LEAST, ASSURING THAT A MAJORITY DOES NOT OPPOSE) HIS PROPOSED ACTION. THERE IS NOTHING

IN LAW OR COMMISSION RULES TO PREVENT THE CHAIRMAN FROM ADOPTING SUCH AN APPROACH.

ONE FURTHER MAJOR ELEMENT OF THE CHAIRMAN'S LETTER DESERVES COMMENT: THE POINT OF COLLEGIALITY IS TO ARRIVE AT A BALANCED AND REASONED DECISION, IN THE HOPE THAT FIVE HEADS, OF DIVERSE EXPERIENCE AND KNOWLEDGE, ARE BETTER THAN ONE. BUT THE CONSTRAINTS OF THE SUNSHINE ACT HAVE SO DISTORTED AND CRIPPLED THE COMMISSION CONCEPT OF GOVERNANCE (CF. MY MEMORANDUM OF FEBRUARY 25, 1985 ATTACHED), THAT I HAVE RELUCTANTLY CONCLUDED THAT, ABSENT SIGNIFICANT CHANGE EITHER IN COMMISSION PROCEDURES UNDER SUNSHINE (OR PERHAPS IN THE LAW ITSELF IF THAT PROVES NECESSARY), A SINGLE ADMINISTRATOR WOULD BE A PREFERABLE ARRANGEMENT. BUT IN MY JUDGMENT, THE PUBLIC INTEREST WOULD BE THE LOSER IN THAT UNFORTUNATE CIRCUMSTANCE. IT WOULD BE FAR BETTER TO HAVE THE COMMISSION SYSTEM FUNCTION AS IT WAS INTENDED THAN TO BE FORCED TO RESORT TO A SINGLE ADMINISTRATOR SO THAT THE SUNSHINE ACT BECOMES IRRELEVANT TO FINAL DECISION-MAKING. THE COMMISSION IS A VEHICLE FOR STABILITY AND A PROTECTION OF THE PUBLIC RIGHT TO KNOW VARIOUS AND DISSENTING POINTS OF VIEW. FOR A SUBJECT AS CONTENDED AS NUCLEAR POWER, I BELIEVE THE PUBLIC WOULD BE THE POORER NOT TO HAVE THE BENEFIT OF SUCH POINTS OF VIEW. IF COLLEGIAL DECISION-MAKING IS DESIRABLE IN PRINCIPLE, BUT IMPOSSIBLE IN PRACTICE BECAUSE OF MISGUIDED, IF WELL-INTENTIONED LAW, THE SOLUTION IS NOT TO DISPOSE OF COLLEGIAL DECISION-MAKING.

QUESTION 27

THE COMMISSION HAS RECENTLY APPROVED CHANGES TO ITS REGULATIONS TO PERMIT IT FINALLY TO CONFORM ITS DELIBERATIONS AND PROCESSES TO THOSE ENVISIONED BY THE CONGRESS WHEN IT PASSED THE SUNSHINE ACT. BRINGING THE COMMISSION'S DEFINITION OF THE TERM "MEETING" IN LINE WITH THAT PRACTICED BY OTHER AGENCIES (AND SUGGESTED BY THE INTERPRETIVE GUIDE TO THE GOVERNMENT IN THE SUNSHINE ACT PUBLISHED BY THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES) SHOULD PERMIT, AT LEAST IN PART, THE REDISCOVERY OF COLLEGIAL DECISIONMAKING BY THE COMMISSION. ONE HOPES IT WILL HAVE A SALUTARY EFFECT ON THE QUALITY OF COMMISSION DECISIONMAKING AS WELL.

QUESTION 28. PLEASE SUMMARIZE THE ACTIVITIES OF THE COMMITTEE FOR THE REVIEW OF GENERIC ACTIVITIES FOR FISCAL YEARS 1984-85.

ANSWER.

ATTACHED IS A SUMMARY OF THE ACTIVITIES FOR THE COMMITTEE TO REVIEW GENERIC REQUIREMENTS FOR THE PERIOD OCTOBER 1, 1983 TO PRESENT.

SUMMARY OF CRGR ACTIVITIES
NOVEMBER 1981 THROUGH DECEMBER 1984

Meeting No. Meeting Date (Announcement Date)	Agenda	CRGR Status	CRGR Recommendation to EDO	EDO Action
72 Jan. 9, 1985 (Dec. 26, 1984)	Review of NRR Proposed Resolution of Generic Issue III.D.2.3, Liquid Pathway Radiological Control -Sponsoring Office - NRR -Category 2 Item -Issue #104	Complete	No recommendation necessary. As provided by the CRGR Charter and approved by the CRGR members, the CRGR Chairman exempted this item from review.	No action required at this time.
	Review of NRR Proposed Draft Regulatory Guide 1.114 Rev. 2, Guidance to Operators at the Controls and to Senior Operators in the Control Room of a Nuclear Power Unit -Sponsoring Office - NRR -Category 2 Item -Issue #105	Complete	No recommendation necessary. As provided by the CRGR Charter and approved by the CRGR members, the CRGR Chairman exempted this item from review.	No action required at this time.
	Discussion of December 20, 1984 Memorandum from Comm. Asselstine to Comm. Roberts Concerning the Efficacy of the CRGR Process. -Issue #106	Complete	CRGR recommended that the EDO reemphasize to staff that they should freely discuss any safety concerns with management.	EDO endorsed CRGR recommendation via memo to Office Directors dtd February 27, 1985

SUMMARY OF CRGR ACTIVITIES
NOVEMBER 1981 THROUGH DECEMBER 1984

Meeting No. Meeting Date (Announcement Date)	Agenda	CRGR Status	CRGR Recommendation to EDO	EDO Action
71 Dec. 3, 1984 (Nov. 16, 1984)	Review of Proposed Requirements Resulting from Resolution of USI A-46, Seismic Qualification of Equipment in Operating Plants -Sponsoring Office - NRR -Category 2 Item -Issue #103	Pending	CRGR recommended that the package be revised to reflect/address CRGR comments and resubmitted for review.	No action required at this time. NRR is revising package to address CRGR comments.
70 Oct. 17, 1984 (Sept. 26, 1984)	Briefing on Proposed NRC Policy Regarding Minimum Dosimetry for Offsite Emergency Workers -Sponsoring Office - IE -Category 2 Item -Issue #102	Complete	CRGR suggested that the staff resolve CRGR concerns, modify the proposal as appropriate and forward modified proposal to the CRGR Chairman for review and disposition.	Package in EDO Office for action.
	Review of Proposed Final Version of Generic Letter Concerning Quality Assurance Related to the ATWS Rule (Also discussed at Mtg. No. 67) -Sponsoring Office - IE -Category 2 Item -Issue #99	Complete	CRGR recommended that the proposed letter be issued for public comment after certain actions are taken.	Approved by the EDO.

SUMMARY OF CRGR ACTIVITIES
NOVEMBER 1981 THROUGH DECEMBER 1984

Meeting No. Meeting Date (Announcement Date)	Agenda	CRGR Status	CRGR Recommendation to EDO	EDO Action
70 (Continued)	Review of Proposed Final Rule Concerning Pressurized Thermal Shock (PTS) (Also discussed at Meeting Nos. 21, 23 and 38 -Sponsoring Office - NRR -Category 2 Item -Issue #41	Complete	CRGR recommended that the EDO forward the proposed rule to the Commission for their approval.	Approved and forwarded to the Commission.
69 Sept. 5, 1984 (Aug. 24, 1984)	Proposed Final Rule 10 CFR Part 53, Criteria and Procedures for Determining the Adequacy of Spent Nuclear Fuel Storage Capacity. (Also Discussed at Mtg. No. 33) -Sponsoring Office - RES -Category 2 Item -Issue #59	Complete	No recommendation necessary. As provided by the CRGR Charter and approved by the CRGR members, the CRGR Chairman exempted this item from review.	Approved by the EDO.
	Review of Proposed IE Bulletin 84- "Cracking in Boiling Water Reactor Mark I and Mark II Containments Caused by Inerting System Failure -Sponsoring Office - IE -Category 2 Item -Issue #100	Complete	CRGR recommended that NRR contact the utilities to determine the necessity of issuing the bulletin and if bulletin is required, certain modification should be made before it is issued.	Licensee contact revealed actions were voluntarily taken. No bulletin was needed.

March 20, 1985

SUMMARY OF CRGR ACTIVITIES
NOVEMBER 1981 THROUGH DECEMBER 1984

Meeting No. Meeting Date (Announcement Date)	Agenda	CRGR Status	CRGR Recommendation to EDO	EDO Action
6 (Continued)	Briefing on Staff Rulemaking Activities Regarding Emergency Response for Earthquakes -Sponsoring Office - IE -Category 2 Item -Issue #101	Pending	CRGR recommendation was not required.	Not necessary at this time because CRGR did not make recommendation to the EDO.
68 August 8, 1984 (July 26, 1984)	Review of revised version of RES Proposed Amendments to 10 CFR Parts 30, 40, 50, 51, 70 and 72 to incorporate Decommissioning Criteria for Nuclear Facilities. (Also Discussed at Mtg. No. 62) -Sponsoring Office - RES -Category 2 Item -Issue #95	Complete	Recommended issuance for public comment after modification to incorporate the one remaining CRGR recommendation.	Approved and forwarded to the Commission.
67 July 25, 1984 (July 10, 1984)	Review of Proposed IE Bulletin "Undervoltage Trip Attachments of Reactor Trip Breakers" (Also Discussed at Mtg. Nos. 25, 61) -Sponsoring Office - IE -Category 2 Item -Issue #94	Complete	CRGR recommended proposed bulletin not be issued.	~~No action required.~~ Bulletin was not issued.

SUMMARY OF CRGR ACTIVITIES
NOVEMBER 1981 THROUGH DECEMBER 1984

Meeting No. Meeting Date (Announcement Date)	Agenda	CRGR Status	CRGR Recommendation to EDO	EDO Action
67 (Continued)	Briefing on Staff Plans to Develop & Issue Generic Ltr. to Include Quality Assurance Requirements for Important-to-Safety ATWS Equipment -Sponsoring Office - IE -Category 2 Item -Issue #99	Complete	CRGR suggested that the QA program be structured consistent with industry practices for similar nonsafety-related equipment.	No EDO action required.
66 July 11, 1984 (June 27, 1984)	Briefing on Staff's Long Range Plans to Address Pipe Cracking (Also Discussed at Mtg. Nos. 20, 22, 31, 45, 49) -Sponsoring Office - NRR -Category 2 Item -Issue #56 (40)	Complete	Recommendation was not required.	Approved and forwarded to Commission.
	Review of Proposed Resolution of USI A-43, "Containment Emergency Sump Performance (Also Discussed at Mtg. Nos. 26, 28) -Sponsoring Office - NRR -Category 2 Item -Issue #47	Pending	CRGR recommended that this proposal not be accepted at this time. CRGR agreed to reconsider this proposal or a modified version after receipt of responses to issues raised at this meeting.	No action required at this time.

SUMMARY OF CRGR ACTIVITIES
NOVEMBER 1981 THROUGH DECEMBER 1984

Meeting No. Meeting Date (Announcement Date)	Agenda	CRGR Status	CRGR Recommendation to EDO	EDO Action
65 June 27, 1984 (June 18, 1984)	Review of Proposed Revision 3 to Reg. Guide 1.28, Quality Assurance Program Requirements (Design & Construction) (Also discussed at Mtg. #51) -Sponsoring Office - IE -Category 2 Item -Issue #97	Complete	Recommended issuance of the Reg. Guide after modification to reflect CRGR comments and recommendations.	Not required. Guide is being issued.
	Proposed Amendments to 10 CFR 50, Domestic Licensing of Production and Utilization Facilities -Sponsoring Office - ADM -Category 2 Item -Issue #98	Complete	No recommendation necessary. As provided by the CRGR Charter and approved by the CRGR members, the CRGR Chairman exempted this item from review.	Approved and forwarded to Commission. Commission approved.
64 May 30, 1984 (May 2, 1984)	Review of Proposed Major Revision of 10 CFR Part 20, Standards for Protection Against Radiation (Also discussed at Mtg. #25, #62, and #63). -Sponsoring Office - RES -Category 2 Item -Issue #45	Complete	Recommended publication for public comments after modifications are made to reflect CRGR comments and recommendations.	Currently under consideration.

SUMMARY OF CRGR ACTIVITIES
NOVEMBER 1981 THROUGH DECEMBER 1984

Meeting No. Meeting Date (Announcement Date)	Agenda	CRGR Status	CRGR Recommendation to EDO	EDO Action
63 May 9, 1984 (April 16, 1984)	Briefing concerning the Status of Proposed Major Revision of 10 CFR Part 20, Standards for Protection Against Radiation (Also discussed at Mtg. #25 & #62) -Sponsoring Office - RES -Category 2 Item -Issue #45	Complete	CRGR recommendation was not required.	Currently under consideration.
	Review of Proposed Resolution of Generic Issue A-30, "Adequacy of Safety Related DC Power Supply -Sponsoring Office - NRR -Category 2 Item -Issues #96	Pending	CRGR review not completed pending additional staff work. This issue will be rescheduled when staff work is complete.	Not applicable at this time.
62 April 25, 1984 (April 16, 1984)	Briefing concerning the Status of Proposed Major Revision of 10 CFR Part 20, Standards for Protection Against Radiation (Also discussed at Mtg. #25). -Sponsoring Office - RES -Category 2 Item -Issue #45	Complete	CRGR recommendation was not required. Another briefing is scheduled for CRGR Meeting #63 (5/9/84).	Currently under consideration.

SUMMARY OF CRGR ACTIVITIES
NOVEMBER 1981 THROUGH DECEMBER 1984

Meeting No. Meeting Date (Announcement Date)	Agenda	CRGR Status	CRGR Recommendation to EDO	EDO Action
62 (Continued)	Review of proposed Amendments to 10 CFR Parts 30, 40, 50, 51 70 and 72, to incorporate Decommissioning Criteria for Nuclear Facilities. -Sponsoring Office - RES -Category 2 Item -Issue #95	Complete	The amendments should not be approved until additional staff work is completed and the issue is again considered by CRGR.	RES has had a second meeting with CRGR. RES response not yet received.
61 April 4, 1984 (March 21, 1984)	Review of proposed IE Bulletin, "Undervoltage Trip Attachments of Reactor Trip Breakers." (Also discussed at Mtg. #25) -Sponsoring Office - IE -Category 2 Item -Issue #94	Complete	The bulletin should be issued after modification. Subsequent to this meeting, the CRGR recommended to the EDO that the bulletin not be issued. (Refer to Meeting No. 60)	See Meeting #67
	Continued review of the proposed resolution of USI A-44 Station Blackout (Also discussed at Mtg. Nos. 59, 60). -Sponsoring Office - NRR -Category 2 Item -Issue #75	Complete	No recommendation - Issue continued at Mtg. No. 60	Not applicable.

SUMMARY OF CRGR ACTIVITIES
NOVEMBER 1981 THROUGH DECEMBER 1984

Meeting No. Meeting Date (Announcement Date)	Agenda	CRGR Status	CRGR Recommendation to EDO	EDO Action
60 April 11, 1984 (March 14, 1984)	Continued review of the proposed resolution of USI A-44 Station Blackout (Also discussed at Mtg. Nos.59, 61) -Sponsoring Office - NRR -Category 2 Item -Issue #75	Complete	Recommended issuance for public comment after taking into account CRGR concerns.	In EDO Office for action.
	Review of the proposed resolution of Generic Issue B-56, Diesel Generator Reliability. (Also discussed at Mtg. No. 43) -Sponsoring Office - NRR -Category 2 Item -Issue #75	Complete	The CRGR recommended additional work and issuance of a 50.54(f) letter.	Approved by the EDO.
	Reconsideration of proposed IE Bulletin, "Undervoltage Trip Attachments of Reactor Trip Breakers." (Also discussed Mtg. Nos. 25, 61) -Sponsoring Office - IE -Category 2 Item -Issue #94	Complete	At Meeting #61, the CRGR recommended that the bulletin be issued after modification. CRGR reconsidered the bulletin and recommended that it not be issued until additional work is done and it is again considered by CRGR.	See Meeting #67

SUMMARY OF CRGR ACTIVITIES
NOVEMBER 1981 THROUGH DECEMBER 1984

Meeting No. Meeting Date (Announcement Date)	Agenda	CRGR Status	CRGR Recommendation to EDO	EDO Action
59 March 28, 1984 (March 14, 1984)	Review of the proposed resolution of USI A-44 Station Blackout and Generic Issue B-56, Diesel Generator Reliability (Also discussed at Mtg. No. 43) -Sponsoring Office - NRR -Category 2 Item -Issue #75	Complete	The CRGR has not completed its review of the proposal and therefore has not yet made recommendations.	See Meeting #60
58 March 13, 1984 (March 2, 1984)	Briefing concerning a Proposal for an Integrated Safety Assessment Program (ISAP) (Also discussed at Mtg. No. 44) -Sponsoring Office - NRR -Category 2 Item -Issue #77	Complete	Assuming ELD concurrence with the proposal, it was acceptable to the CRGR. The CRGR suggested that the proposal be forwarded to the Commission.	EDO approved and forwarded to the Commission. Commission approved.
	Review of Proposed NUREG-0801, Evaluation Criteria for Detailed Control Room Design -Sponsoring Office - NRR -Category 2 Item -Issue #93	Complete	The CRGR recommended approval after modification.	Approved issuance of Review Criteria incorporated into Standard Review Plan as opposed to use of NUREG document.

Summary of CRGR Activities
(November 1981 through February 1984)

Date 08-20-84

MEETING			SPONSORING OFFICE	CRGR CATEGORY NUMBER	CRGR ISSUE NUMBER	ALSO TOPIC AT CRGR MEETING NUMBER	CRGR STATUS	CRGR RECOMMENDATION TO EDO	EDO ACTION
#	DATE (NOTICE)	AGENDA							
57	02/15/84 (02/07/84)	Review of proposed 1) NUREG-0801, Evaluation Criteria for Detailed Control Room Design Review and 2) NUREG-0835, Human Factors Review Guidelines for the Safety Parameter Display System.	NRR	2	92	---	Completed	Recommended that NUREG-0835 not be published. CRGR, with NRR agreement, decided to postpone review of NUREG-0801.	Approved issuance of NUREG-0801 and has 0835 under consideration for use in SRP.

Summary of CRGR Activities
(November 1981 through February 1984)

MEETING			SPONSORING OFFICE	CRGR CATEGORY NUMBER	CRGR ISSUE NUMBER	ALSO TOPIC AT CRGR MEETING NUMBER	CRGR STATUS	CRGR RECOMMENDATION TO EDO	EDO ACTION
#	DATE (NOTICE)	AGENDA							
55	02/06/84 (01/09/84)	Review of the proposed IE Bulletin entitled "Failures of General Electric Type HFA Relay in Use in Class 1E Safety Systems."	IE	2	90	---	Completed	Proposed bulletin should be issued after modifications.	Not required. Bulletin was issued.
56	02/03/84 (01/23/84)	Review of the status of the staff's evaluation and conclusions regarding the need for power operated relief valves (PORV) for power plants designed by Combustion Engineering, Inc. (CE).	NRR	2	91	---	Completed	CRGR agreed with the NRR proposal.	Approved and forwarded to Commission. Commission approved.

Summary of CRGR Activities
(November 1981 through February 1984)

MEETING			SPONSORING OFFICE	CRGR CATEGORY NUMBER	CRGR ISSUE NUMBER	ALSO TOPIC AT CRGR MEETING NUMBER	CRGR STATUS	CRGR RECOMMENDATION TO EDO	EDO ACTION
#	DATE (NOTICE)	AGENDA							
54	01/19/84 (12/27/83)	Proposed revision (1) to Reg. Guide 1.89, Environmental Qualification of Electric Equipment Important to Safety for Nuclear Power Plants.	RES	2	89	---	Completed	Proposed revision (2) should be issued after modification.	Approved and forwarded to Commission.

QUESTION 29. IN THE REPORT ENTITLED "AN INDEPENDENT SAFETY ORGANIZATION," RECENTLY SUBMITTED TO THE CONGRESS BY THE NRC, THE AUTHORS OF THAT REPORT STATED:

> "IT IS THE TASK FORCE'S PERCEPTION, AND ALSO THAT OF THE UTILITIES, THAT CURRENTLY, FOLLOWING A SIGNIFICANT EVENT, TOO MANY INDEPENDENT INVESTIGATIONS ARE CARRIED OUT BY THE VARIOUS NRC OFFICES (I&E, REGIONS, NRR, AEOD), INPO, EPRI/NSAC, UTILITY, AND VENDORS."

PLEASE ADDRESS THIS MATTER, INSOFAR AS OVERLAP AMONG THE VARIOUS NRC OFFICES HAS BEEN RAISED AS A CONCERN AND, IN ADDITION, DESCRIBE THE STEPS THAT THE COMMISSION HAS TAKEN AND INTENDS TO TAKE TO ELIMINATE UNNECESSARY OVERLAP.

ANSWER.

IN REGARD TO NUCLEAR POWER PLANT EVENTS, 10 CFR 50.72 REQUIRES THAT LICENSEES PROMPTLY REPORT TO THE NRC OPERATIONS CENTER VIA THE EMERGENCY NOTIFICATION SYSTEM ANY OPERATING EVENT OR CONDITION INDICATIVE OF A SIGNIFICANT DEGRADATION IN SAFETY. THE OFFICE OF INSPECTION AND ENFORCEMENT (IE) IS RESPONSIBLE FOR OPERATING THE OPERATIONS CENTER CONTINUOUSLY AND STAFFS THE CENTER WITH QUALIFIED NUCLEAR ENGINEERS. EACH CALL IS IMMEDIATELY EVALUATED FOR SAFETY SIGNIFICANCE AND COORDINATED WITH APPROPRIATE REGIONAL PERSONNEL. THE NORMAL ONSITE NRC RESPONSE AND INVESTIGATION TO ROUTINE EVENTS

IS CONDUCTED BY REGIONAL PERSONNEL, INCLUDING THE RESIDENT INSPECTOR AT THE AFFECTED SITE.

EACH WORKING DAY, ALL REPORTS TO THE OPERATIONS CENTER ARE REVIEWED BY IE AND THE OFFICE OF NUCLEAR REACTOR REGULATION (NRR) AND THE GENERIC SAFETY IMPLICATIONS ASSESSED. IF REQUIRED, THERE IS FOLLOWUP WITH THE UTILITY OR THE REGIONAL OFFICE TO OBTAIN SUFFICIENT INFORMATION TO EVALUATE THE GENERIC SAFETY SIGNIFICANCE OF THE EVENT. IF SUCH FOLLOWUP IS NECESSARY, LEAD RESPONSIBILITY IS ASSIGNED TO EITHER IE OR NRR IN ORDER TO MINIMIZE ANY DUPLICATION OF EFFORT.

FOR SELECTED SIGNIFICANT EVENTS (E.G., GINNA STEAM GENERATOR TUBE RUPTURE AND THE SALEM ATWS), AN NRC INTEROFFICE TASK GROUP IS FORMED TO DETERMINE THE FACTS, CAUSES, AND RECOMMENDED CORRECTIVE ACTION. HOWEVER, IN DEALING WITH THE LICENSEE, SUCH A TASK GROUP FUNCTIONS AS A SINGLE ENTITY.

LICENSEES ARE ALSO REQUIRED (10 CFR 50.73) TO SUBMIT WRITTEN LICENSEE EVENT REPORTS DESCRIBING AND ANALYZING EVENTS THAT ARE SIGNIFICANT TO SAFETY. A SYSTEM FOR TRACKING THESE REPORTS HAS BEEN DEVELOPED TO ASSURE APPROPRIATE FOLLOWUP AND CLOSEOUT BY THE REGIONAL PERSONNEL AS PART OF THEIR ONGOING INSPECTION PROGRAM.

FINALLY, THE OFFICE FOR ANALYSIS AND EVALUATION OF OPERATIONAL DATA (AEOD) REVIEWS U.S. AND FOREIGN EVENT NOTIFICATIONS AND LICENSEES

EVENT REPORTS FOR IDENTIFICATION OF GENERIC TRENDS RELATIVE TO SAFETY. ENGINEERING EVALUATIONS AND CASE STUDIES ARE PREPARED WITH RECOMMENDATIONS FOR FURTHER ACTION BY APPROPRIATE ORGANIZATIONS AS A RESULT OF THIS ANALYSIS.

THUS, WHILE WE WOULD AGREE THAT THERE ARE A NUMBER OF OFFICES INVOLVED WITH THE RESPONSE TO AND EVALUATION OF OPERATIONAL EVENTS, THESE ACTIVITIES ARE NOT REDUNDANT NOR IS THERE ANY UNNECESSARY OVERLAP. IN ADDITION, WE KNOW OF NO CASES WHERE THESE ACTIVITIES HAVE PLACED AN UNREASONABLE BURDEN ON THE UTILITIES INVOLVED.

QUESTION 30. FOR EACH FISCAL YEARS 1980 THROUGH 1985, PLEASE IDENTIFY THE FOLLOWING:

(A) THE NUMBER OF PROCEEDINGS PENDING BEFORE NRC LICENSING BOARDS, BROKEN DOWN BY OPERATING LICENSE PROCEEDINGS, LICENSE AMENDMENT PROCEEDINGS, AND OTHERS.

ANSWER.

THE NUMBER OF PROCEEDINGS PENDING BEFORE THE LICENSING BOARDS DURING FYs 1980 THROUGH 1985 WERE:

	OL	OLA	OTHERS	TOTAL
1980	23	18	41	82
1981	27	16	45	88
1982	27	17	32	76
1983	28	17	19	64
1984	24	17	22	63
1985*	19	9	16	44

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*FIVE MONTHS

MEETING			SPONSORING OFFICE	CRGR CATEGORY NUMBER	CRGR ISSUE NUMBER	ALSO TOPIC AT CRGR MEETING NUMBER	CRGR STATUS	CRGR RECOMMENDATION TO EDO	EDO ACTION
#	DATE (NOTICE)	AGENDA							
53	01/11/84 (12/15/83)	a) Proposed final version of a revision to 10 CFR Part 51, Licensing and Regulatory Policy and Procedures for Environmental Protection (Adds narrative explanation for Table S-3, Uranium Fuel Cycle Environmental Data)	NMSS	2	87	---	Completed	Staff proposal should be approved however the paper should be modified to highlight certain issues. Thereafter, ELD should review the paper.	Approved and forwarded to Commission. Commission approved
		b) Proposed revision to the existing rule on protection of Spent Fuel shipments (10CFR Part 73).	NMSS	2	88	---	Completed	Agreed with the staff proposal, however certain policy-related considerations where raised for EDO/ Commission consideration	Approved and forwarded to Commission Commission approved.
		c) Proposed revision (2) to Regulatory Guide 1.105, Instrument Setpoints for Safety Related Systems.	RES	2	82	48	Completed	Staff proposal should not be approved as submitted.	Not required. Will be re-submitted to CRCR

Summary of CRGR Activities
(November 1981 through February 1984)

MEETING			SPONSORING OFFICE	CRGR CATEGORY NUMBER	CRGR ISSUE NUMBER	ALSO TOPIC AT CRGR MEETING NUMBER	CRGR STATUS	CRGR RECOMMENDATION TO EDO	EDO ACTION
#	DATE (NOTICE)	AGENDA							
52	12/08/83 (11/18/83)	a) Review of a proposed IE Bulletin, "Electrical Circuit Breakers with an Undervoltage Trip Feature in Use in Safety-Related Applications Other Than the Reactor Trip System."	IE	2	85	---	Completed	The Bulletin should be issued after modification.	Not required. Bulletin was issued.
		b) Review of a proposed rulemaking for "Training and Qualifications of Personnel Performing Functions Important to Safety." (Section 306 of NWP Act of 1982)	NRR	2	86	---	Completed	The proposed rulemaking should be approved after modification.	Approved and forwarded to Commission. Commission approved

MEETING			SPONSORING OFFICE	CRGR CATEGORY NUMBER	CRGR ISSUE NUMBER	ALSO TOPIC AT CRGR MEETING NUMBER	CRGR STATUS	CRGR RECOMMENDATION TO EDO	EDO ACTION
#	DATE (NOTICE)	AGENDA							
50	10/26/83 (10/21/83)	Review of a policy issue - proposed staff position on the definition of "important to safety" and "safety-related".	NRR	2	84	---	Completed	The staff position should not be approved as proposed.	Evaluated CRGR and NRR recommendations and provided specific guidance to NRR.
51	11/23/83 (11/10/83)	Review of a major policy issue - the proposed resolution of USI A-1, Water Hammer.	NRR	2	60	33	Completed	The proposal should be approved pending resolution of CRGR comments.	Approved and forwarded to Commission.

Summary of CRGR Activities
(November 1981 through February 1984)

MEETING			SPONSORING OFFICE	CRGR CATEGORY NUMBER	CRGR ISSUE NUMBER	ALSO TOPIC AT CRGR MEETING NUMBER	CRGR STATUS	CRGR RECOMMENDATION TO EDO	EDO ACTION
#	DATE (NOTICE)	AGENDA							
49	10/24/83 (10/19/83)	a) Review of a major policy issue - requirements for reinspection of BWR piping and repair of cracked piping.	NRR	1	56 (40)	(20,22, 31&45)	Completed	The proposed requirements should be approved, however the Commission paper should be modified.	Approved and forwarded to Commission. Commission approved.
		b) Continuation of the review of a major policy issue - proposed resolution of USIs A-3, A-4 and A-5 regarding steam generator tube integrity.	NRR	2	80	46&47	Completed	The proposal should be approved after modification.	Approved and forwarded to Commission.

MEETING			SPONSORING OFFICE	CRGR CATEGORY NUMBER	CRGR ISSUE NUMBER	ALSO TOPIC AT CRGR MEETING NUMBER	CRGR STATUS	CRGR RECOMMENDATION TO EDO	EDO ACTION
#	DATE (NOTICE)	AGENDA							
48	10/20/83 (10/14/83)	a) Review of a proposed Revision (2) to Regulatory Guide 1.105, Instrument Setpoints for Safety Related Systems.	RES	2	82	---	Completed	As proposed, the guide revision should not be approved. The staff should reconsider and coordinate with other offices, the proposed revision. Thereafter, the revision should be submitted for CRGR review.	Not required. Guide will be resubmitted to CRGR.
		b) Review of a proposed rule concerning a degree requirement for operating staff at nuclear power plants.	NRR	2	83	---	Pending	As proposed, the rule should not be approved until additional staff work is completed and the issue is again considered by CRGR.	Not required. Proposed rule not resubmitted to CRGR.

QUESTION 30. - 2 -

(B) THE NUMBER OF DECISIONS RENDERED BY NRC LICENSING BOARDS, BROKEN DOWN BY OPERATING LICENSE PROCEEDINGS, LICENSE AMENDMENT PROCEEDINGS, AND OTHERS.

ANSWER.

THE NUMBER OF DECISIONS RENDERED BY THE LICENSING BOARDS DURING FYs 1980 THROUGH 1985 WERE:

	OL	OLA	OTHERS	TOTAL
1980	15	7	13	35
1981	23	6	17	46
1982	51	24	31	86
1983	80	9	22	111
1984	27	13	9	49
1985*	17	3	6	26

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*FIVE MONTHS

THE NUMBERS LISTED REPRESENT ONLY THOSE DECISIONS, MEMORANDA, AND ORDERS ISSUED BY LICENSING BOARDS CONSIDERED TO BE OF SUFFICIENT SIGNIFICANCE TO BE PUBLISHED IN THE PERMANENT BOUND VOLUMES OF NUCLEAR REGULATORY COMMISSION ISSUANCES. THEY DO NOT INCLUDE THE MANY MEMORANDA AND ORDERS ISSUED ON MATTERS OF PROCEDURE THAT HAVE NO PARTICULAR PRECEDENTIAL SIGNIFICANCE OR ORDERS RULING ON

QUESTION 30.

SUBSTANTIVE BUT CASE-SPECIFIC ISSUES NOT OF GENERAL APPLICABILITY. OF THE DECISIONS ENUMERATED, THE FOLLOWING, WHICH INCLUDE ORDERS DISMISSING PROCEEDINGS, WERE "FINAL" IN THAT THEY TERMINATED CONSIDERATION OF A PENDING CASE:

	OL	OLA	OTHERS	TOTAL
1980	0	3	0	3
1981	4	1	21	26
1982	5	4	18	27
1983	5	4	8	17
1984	5	8	8	21
1985	6	3	2	11

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*FIVE MONTHS

QUESTION 30.

FOR EACH OF FISCAL YEARS 1980 THROUGH 1985, PLEASE IDENTIFY THE FOLLOWING:

(c) THE NUMBER OF PROCEEDINGS PENDING BEFORE NRC'S APPEAL PANEL, BROKEN DOWN BY OPERATING LICENSE PROCEEDINGS, LICENSE AMENDMENT PROCEEDINGS AND OTHERS.

ANSWER.

THE NUMBER OF PROCEEDINGS PENDING BEFORE THE APPEAL BOARDS DURING FYs 1980 THROUGH 1985 WERE:

	OL	OLA	OTHERS
1980	10	9	21
1981	14	6	19
1982	17	6	21
1983	18	4	10
1984	17	-	9
1985 (FIVE MONTHS)	12	3	1

QUESTION 30.

(D) THE NUMBER OF DECISIONS RENDERED BY NRC'S APPEAL BOARD, BROKEN DOWN BY OPERATING LICENSE PROCEEDINGS, LICENSE AMENDMENT PROCEEDINGS AND OTHERS;

ANSWER.

THE NUMBER OF DECISIONS RENDERED BY THE APPEAL BOARDS DURING FYS 1980 THROUGH 1985 WERE:

	OL	OLA	OTHERS
1980	17	7	26
1981	15	7	17
1982	19	5	17
1983	24	6	18
1984	30	-	12
1985 (FIVE MONTHS)	10	4	1

THE NUMBERS LISTED REPRESENT ONLY THOSE DECISIONS, MEMORANDA, AND ORDERS ISSUED BY THE APPEAL BOARDS CONSIDERED TO BE OF PRECEDENTIAL VALUE OR OF OTHERWISE SUFFICIENT SIGNIFICANCE TO BE PUBLISHED IN THE PERMANENT BOUND VOLUMES OF NUCLEAR REGULATORY COMMISSION ISSUANCES. THEY DO NOT INCLUDE THE MANY MEMORANDA AND ORDERS ISSUED BY THE APPEAL BOARDS ON MATTERS OF PROCEDURE THAT HAVE NO PARTICULAR PRECEDENTIAL SIGNIFICANCE.

QUESTION 30. - 6 -

(E) THE NUMBER OF APPEALS TAKEN FROM LICENSING BOARD DECISIONS TO THE APPEAL PANEL, BROKEN DOWN BY OPERATING LICENSE PROCEEDINGS, LICENSE AMENDMENT PROCEEDINGS, AND OTHERS.

ANSWER.

THE NUMBER OF APPEALS TAKEN FROM LICENSING BOARD DECISIONS DURING FYS 1980 THROUGH 1985 WERE:

	OL	OLA	OTHERS
1980	6	4	16
1981	10	5	9
1982	12	2	10
1983	19	6	9
1984	19	0	5
1985 (FIVE MONTHS)	9	2	2

THE NUMBER OF APPEALS INCLUDES NOT ONLY APPEALS FROM LICENSING BOARD INITIAL DECISIONS AND PARTIAL INITIAL DECISIONS BUT ALSO APPEALS FROM LICENSING BOARD RULINGS ON INTERVENTION PETITIONS AND OTHER INTERLOCUTORY TYPE OF APPEALS. MANY APPEALS OFTEN RESULT IN MORE THAN ONE APPEAL BOARD DECISION. CONSEQUENTLY, THE NUMBER OF APPEAL BOARD DECISIONS ISSUED DURING A PARTICULAR YEAR IS GENERALLY LARGER THAN THE TOTAL NUMBER OF APPEALS TAKEN FROM LICENSING BOARD DECISIONS DURING THAT SAME YEAR.

QUESTION 30.

(F) THE NUMBER OF APPEALS TAKEN FROM APPEAL PANEL DECISIONS TO THE COMMISSION, BROKEN DOWN BY OPERATING LICENSE PROCEEDINGS, LICENSE AMENDMENT PROCEEDINGS, AND OTHERS;

ANSWER:

THE FOLLOWING TABULATION LISTS THE NUMBER OF APPEAL BOARD DECISIONS ON WHICH PARTIES HAVE REQUESTED COMMISSION REVIEW OR HAVE FILED MOTIONS ASKING THE COMMISSION TO MODIFY AN APPEAL BOARD RULING ON A STAY REQUEST.

	TOTAL	OPERATING LICENSE PROCEEDINGS	LICENSE AMENDMENT PROCEEDINGS	OTHER
FY 80	10	3	2	5
FY 81	8	2	0	6
FY 82	6	2	2	2
FY 83	10	4	2	4
FY 84	15	5	3	7
FY 85 (TO DATE)	7	7	0	0

(G) THE NUMBER OF ADJUDICATORY DECISIONS RENDERED BY THE COMMISSION, BROKEN DOWN BY OPERATING LICENSE PROCEEDINGS, LICENSE AMENDMENT PROCEEDINGS, AND OTHER;

ANSWER:

THE FOLLOWING TABULATION LISTS ONLY THOSE ADJUDICATORY ORDERS DEEMED SIGNIFICANT ENOUGH TO BE PUBLISHED IN NRC ISSUANCES. IT DOES NOT INCLUDE MINOR SUBSTANTIVE ORDERS OR MINOR PROCEDURAL OR SCHEDULING ORDERS.

	TOTAL	OPERATING LICENSE PROCEEDINGS	LICENSE AMENDMENT PROCEEDINGS	OTHER
FY 80	27	5	2	20
FY 81	19	6	2	11
FY 82	37	14	2	21
FY 83	28	11	0	17
FY 84	19	13	1	5
FY 85 (TO DATE)	6	4	0	2

QUESTION 30.

(H) FOR EACH OF FISCAL YEARS 1980 THROUGH 1985, PLEASE IDENTIFY THE NUMBER OF ATTORNEYS IN THE HEARING DIVISION, OFFICE OF THE EXECUTIVE LEGAL DIRECTOR (FTES)

ANSWER:

THE NUMBER OF ATTORNEYS ASSIGNED TO THE HEARING DIVISION OF THE OFFICE OF THE EXECUTIVE LEGAL DIRECTOR DURING FISCAL YEARS 1980 THROUGH 1985 WERE:

1980 - 28
1981 - 31
1982 - 44
1983 - 38
1984 - 36
1985 - 34

(I) FOR EACH OF FISCAL YEARS 1980 THROUGH 1985, PLEASE IDENTIFY THE NUMBER OF ATTORNEYS ASSIGNED TO EACH CONTESTED CASE, BROKEN DOWN BY OPERATING LICENSE PROCEEDINGS, LICENSE AMENDMENT PROCEEDINGS, AND OTHER. (FTES)

ANSWER:

THE NUMBER OF ATTORNEYS ASSIGNED TO A GIVEN CASE VARIES DEPENDING ON THE NUMBER OF PARTIES IN THE PROCEEDING, THE NUMBER OF ISSUES RAISED BY THE INTERVENORS AND THE COMPLEXITY OF THE MATTERS TO BE LITIGATED. IN ADDITION, THE NUMBER OF ATTORNEYS ASSIGNED TO A CASE WILL FLUCTUATE DEPENDING ON THE STAGE OF THE PROCEEDING. FOR THIS REASON, IT IS EXTREMELY DIFFICULT, AND IN SOME CASES IMPOSSIBLE, TO ACCURATELY SET FORTH "[T]HE NUMBER OF ATTORNEYS ASSIGNED TO EACH CONTESTED CASE" FOR EACH FISCAL YEAR FROM 1980 TO 1985. HOWEVER, IT IS POSSIBLE TO INDICATE WITH REASONABLE PRECISENESS THE GENERAL STAFFING PATTERNS FOLLOWED BY THE HEARING DIVISION OF THE OFFICE OF THE EXECUTIVE LEGAL DIRECTOR WITH REGARD TO CONTESTED CASES. SPECIFICALLY, IN THE EARLY STAGES OF

THE PROCEEDINGS, WHEN INDIVIDUALS OR ORGANIZATIONS ARE SEEKING TO INTERVENE AND SUBMITTING PROPOSED CONTENTIONS, ONLY ONE ATTORNEY IS NORMALLY ASSIGNED TO THE CASE. SIMILARLY, DURING THE DISCOVERY PHASE OF THE CASE ONE ATTORNEY IS USUALLY SUFFICIENT ALTHOUGH IN SOME CASES WHERE EXTENSIVE DISCOVERY IS SOUGHT IN THE FORM OF DEPOSITIONS, ADDITIONAL STAFF RESOURCES ARE REQUIRED. IN THE LATTER PHASES OF THE CASE WHERE MOTIONS FOR SUMMARY DISPOSITION ARE BEING FILED, TESTIMONY IS BEING PREPARED, THE HEARING IS BEING CONDUCTED AND PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW ARE BEING FILED, TWO ATTORNEYS ARE NORMALLY REQUIRED. HOWEVER, IN CERTAIN OF OUR CASES - SHOREHAM, COMANCHE PEAK, LIMERICK, DIABLO CANYON, INDIAN POINT, AND TMI-1 (RESTART) - CONSIDERABLY MORE THAN TWO ATTORNEYS WERE REQUIRED; WE ASSIGNED SIX ATTORNEYS TO THE SHOREHAM CASE, FIVE ATTORNEYS TO THE COMANCHE PEAK CASE, AND FOUR ATTORNEYS TO THE LIMERICK, DIABLO CANYON, INDIAN POINT AND TMI CASES. FINALLY, DURING THE APPELLATE PROCESS, ONLY ONE ATTORNEY IS REQUIRED, ALTHOUGH THIS NUMBER VARIES DEPENDING ON THE NUMBER OF APPEALS TAKEN AND THE COMPLEXITY OF THE ISSUES RAISED.

QUESTION 31. For each of Fiscal Years 1980 through 1985, please identify the following:

(A) The number of attorneys in the Office of the General Counsel (FTS).

ANSWER.

The number of attorneys in the Office of the General Counsel (OGC) has fluctuated during each fiscal year as well as among the fiscal years. As best we can tell, the maximum number of full time attorneys (including detailees from the Office of the Executive Legal Director) during the fiscal years 1980-85 was:

1980	1981	1982	1983	1984	1985
20	21	22	20	20	21

(B) THE PORTION OF TOTAL ATTORNEY TIME ALLOCATED TO (I) ADJUDICATORY MATTERS WITHIN THE COMMISSION; (II) DEFENDING THE COMMISSION IN COURT; (III) LEGAL REVIEW AND ANALYSIS OF NRC STAFF RULEMAKING PROPOSALS AND OTHER NON-ADJUDICATORY MATTERS; AND (IV) OTHER (PLEASE BE SPECIFIC).

ANSWER.

PRIOR TO 1983, THE ALLOCATION OF ATTORNEY TIME TO VARIOUS ACTIVITIES WAS DETERMINED BY AN ANNUAL RETROSPECTIVE SELF-REPORT. IN LATE 1983, OGC SWITCHED TO A WEEKLY SELF-REPORTING SYSTEM. BECAUSE THE NEW CONTEMPORAENOUS SYSTEM IS INHERENTLY MORE ACCURATE, YIELDS RESULTS DIFFERENT FROM THOSE OBTAINED FROM THE ANNUAL RETROSPECTIVE SELF-REPORT, AND SHOWS THAT THE PERCENTAGES OF ATTORNEY TIME DEVOTED TO VARIOUS AREAS HAS BEEN FAIRLY CONSTANT, ONLY THOSE RESULTS ARE REPORTED BELOW.

QUESTION 31

CATEGORY	1ST QUARTER FY84	2ND QUARTER FY84	2ND&3RD QUARTER FY84	4TH QUARTER FY84	1ST QUARTER FY85
ADJUDICATION	21	20	20	21	19
LITIGATION	32	33	32	37	31
OPENNESS (FOIA, SUNSHINE)	11	8	8	14	5
LEGISLATIVE	4	3	2	1	5
RULEMAKING	4	9	7	8	5
COMMISSION REQUESTS	7	4	2	3	3
EXPORTS	1	1	1	1	0
HOUSEKEEPING	7	4	3	3	8
ENFORCEMENT	2	2	2	1	0
SPECIAL PROJECTS	4	5	3	1	2
ADMINISTRATIVE	5	7	6	7	5
CONFLICTS	2	3	12	5	5
INVESTIGATIONS	2	1	1	0	0

(c) THE NUMBER OF ADJUDICATORY PAPERS PREPARED FOR THE COMMISSION BY THE OFFICE OF GENERAL COUNSEL ON APPEALS FROM LICENSING BOARD DECISIONS AND APPEAL PANEL DECISIONS, BROKEN DOWN BY OPERATING LICENSE PROCEEDINGS, LICENSE AMENDMENT PROCEEDINGS, AND OTHERS, WITH AN INDICATION OF HOW MANY OF SUCH ADJUDICATORY PAPERS REQUIRED COMMISSION ACTION.

ANSWER:

.HE OFFICE OF THE GENERAL COUNSEL PREPARES A PAPER FOR THE COMMISSION ON EACH APPEAL BOARD DECISION THAT IS CHALLENGED BY A PARTY TO THE PROCEEDING. THE NUMBER OF SUCH CHALLENGES IS SET FORTH IN OUR RESPONSE TO QUESTION 30(F). THOSE NUMBERS DO NOT REFLECT THE TOTAL NUMBER OF ADJUDICATORY PAPERS SENT TO THE COMMISSION BY THAT OFFICE BECAUSE OGC ALSO SUBMITS PAPERS TO THE COMMISSION ON APPEAL BOARD DECISIONS UPON WHICH NO PARTY HAS FILED A PETITION FOR REVIEW. THIS PERMITS THE COMMISSION TO DETERMINE WHETHER IT SHOULD TAKE REVIEW OF A DECISION SUA SPONTE. IT ALSO SUBMITS PAPERS TO THE COMMISSION AS PART OF THE COMMISSION'S "IMMEDIATE EFFECTIVENESS" REVIEW OF A LICENSING BOARD DECISION AUTHORIZING ISSUANCE OF A FULL-POWER OPERATING APPROXIMATELY 53 PAPERS TO THE COMMISSION ON AGENCY ADJUDICATIONS.

QUESTION 32. THE OFFICE OF INSPECTOR AND AUDITOR, IN A REPORT ENTITLED "OIA REVIEW OF THE OPERATING LICENSE REVIEW PROCESS FOR POWER REACTORS" STATES THAT "DUE TO DIMINISHING STAFF REQUIREMENTS TO CARRY OUT LICENSING REVIEWS NRR HAS FOUND ITSELF IN A POSITION OF HAVING TOO MANY STAFF MEMBERS IN CERTAIN TECHNICAL DISCIPLINES AND TOO FEW IN OTHERS. THIS SITUATION WILL GET WORSE IN THE NEXT FEW YEARS AS STAFF REQUIREMENTS FOR CASEWORK DECLINE SHARPLY. BASED ON DISCUSSIONS WITH MANAGEMENT OFFICIALS IN NRR, WE BECAME CONCERNED THAT SUFFICIENT EFFORTS WERE NOT BEING MADE ON AN AGENCY-WIDE BASIS TO HANDLE THE STAFF REDUCTIONS." (SEE SECY 84-430, P. 4). DOES THE COMMISSION AGREE WITH THE BASIC CONCLUSION THAT THERE ARE TOO MANY STAFF IN NRR IN SOME AREAS AND TOO FEW IN OTHERS? IF SO, PLEASE IDENTIFY THOSE DISCIPLINES FOR WHICH THIS IS THE CASE. WHAT STEPS, IF ANY, HAS THE COMMISSION TAKEN TO ADDRESS THIS MATTER?

QUESTION 32. - 2 -

ANSWER.

IT IS TRUE THAT THE MIX OF SKILLS REQUIREMENTS TO LICENSE A POWER PLANT DIFFER SOMEWHAT FROM THE MIX OF SKILLS NECESSARY FOR THE REGULATION OF OPERATING FACILITIES. HOWEVER, AS THE EDO NOTED IN THE RESPONSE TO THE OIA REPORT, NRR IS CONTINUING TO TAKE STEPS TO REALLOCATE STAFF FROM OVERAGES TO UNITS WHERE THESE SKILLS COULD BE EFFECTIVELY USED. IN ADDITION, THE COMMISSION HAS UNDERWAY AN EVALUATION OF ALL OFFICES TO IDENTIFY STAFF EFFICIENCIES AND COST AVOIDANCES. AS PART OF THAT EVALUATION, EXCESS SKILLS WILL BE IDENTIFIED AND APPROPRIATE ACTION TAKEN.

QUESTION 33. PLEASE PROVIDE THE FOLLOWING OIA REPORTS:

SURVEY OF THE OFFICE OF THE GENERAL COUNSEL (DRAFT & FINAL)

SURVEY OF CONTRACTS AWARDED OVER $250,000

SURVEY AUDIT OF NRC'S LICENSE CONTRACTOR AND VENDOR INSPECTION PROGRAM

REVIEW OF THE COMMITTEE TO REVIEW GENERIC REQUIREMENTS

REVIEW OF STATEMENTS THAT NRC STAFF OFFICES APPLY PRESSURE ON NATIONAL LABORATORIES

REVIEW OF NRC'S QUALITY ASSURANCE INSPECTION PROGRAM FOR REACTORS UNDER CONSTRUCTION

REVIEW OF THE OFFICE OF INSPECTION AND ENFORCEMENT'S ASSESSMENT FUNCTIONS

SURVEY AUDIT OF THE ACTIVITIES OF THE OFFICE OF STATE PROGRAMS

FOLLOW-UP ON OIA REPORT "SURVEY OF THE OFFICE OF ANALYSIS AND EVALUATION OF OPERATIONAL DATA

FOLLOW-UP ON OIA REPORT "REVIEW OF NRC'S REACTOR SAFEGUARDS PROGRAM"

QUESTION 33. - 2 -

ANSWER.

COPIES OF THE REQUESTED REPORTS ARE ATTACHED.*

THE DRAFT AND FINAL REPORTS ON THE SURVEY OF THE OFFICE OF THE GENERAL COUNSEL HAVE BEEN GIVEN VERY LIMITED DISTRIBUTION WITHIN NRC. IN ADDITION, THE REVIEW OF THE COMMITTEE TO REVIEW GENERIC REQUIREMENTS HAS NOT BEEN PUBLICLY RELEASED. AS A RESULT, PLEASE LIMIT THEIR USE TO THE NEEDS OF THE COMMITTEE MEMBERS AND ITS STAFF.

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*Retained in committee files.

QUESTION 34. THE PROPOSED FY 86 BUDGET FOR THE NUCLEAR MATERIALS SAFETY AND SAFEGUARDS PROGRAM, ACCORDING TO THE NRC, WILL LIMIT THE ABILITY OF THE AGENCY TO EVALUATE DEPARTMENT OF ENERGY (DOE) HIGH-LEVEL NUCLEAR WASTE ACTIVITIES IN A TIMELY MANNER. BASED ON A RECENT PROPOSED RULE, NRC WOULD ALSO REDUCE ITS OVERSIGHT OF THE SITE SCREENING AND PLANNING PROCESS. TAKEN IN CONJUNCTION, THESE DEVELOPMENTS, COULD SERIOUSLY JEOPARDIZE ANY EFFECTIVE NRC OVERSIGHT OF DOE'S HIGH-LEVEL WASTE ACTIVITIES. PLEASE DESCRIBE IN DETAIL THE POTENTIAL EFFECT OF THESE CHANGES, SHOULD THEY BE IMPLEMENTED.

ANSWER.

ON JANUARY 17, 1985, THE COMMISSION PUBLISHED FOR COMMENT PROPOSED AMENDMENTS TO ITS LICENSING PROCEDURES (10 CFR PART 60) FOR DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE (HLW) IN GEOLOGIC REPOSITORIES. UNDER THESE PROPOSED CHANGES, SEVERAL CATEGORIES OF INFORMATION NOW REQUIRED BY 10 CFR PART 60 TO BE SUBMITTED TO NRC IN DOE'S SITE CHARACTERIZATION PLAN HAVE BEEN DELETED -- NOTABLY, THE METHOD BY WHICH THE SITE WAS SELECTED FOR CHARACTERIZATION, THE IDENTIFICATION AND LOCATION OF ALTERNATIVE MEDIA AND SITES AT WHICH DOE INTENDS TO CONDUCT SITE CHARACTERIZATION, AND A DESCRIPTION OF THE DECISION PROCESS BY WHICH THE SITE WAS SELECTED FOR CHARACTERIZATION.

UNDER THE WASTE POLICY ACT, THE OMITTED ITEMS ARE REQUIRED TO BE DISCUSSED IN A SEPARATE DOCUMENT, THE ENVIRONMENTAL ASSESSMENT (EA). THE PREPARATION OF AN EA IS TO BE PRECEDED BY PUBLIC HEARINGS AND CONSULTATION BY DOE WITH GOVERNORS OF AFFECTED STATES. DOE HAS PUBLISHED DRAFT EA'S FOR PUBLIC COMMENT. THESE PROVISIONS FOR STATE, TRIBAL AND PUBLIC PARTICIPATION IN THE SITE SELECTION PROCESS PRECEDE PRESIDENTIAL REVIEW AND APPROVAL OF CANDIDATE SITES FOR CHARACTERIZATION.

THE COMMISSION STAFF IS REVIEWING THE DRAFT EA'S, AS WELL AS OTHER TECHNICAL DOCUMENTS PREPARED BY DOE, IN ORDER TO ASSESS ON A CONTINUING BASIS, THE DOE PROGRAM TO DEVELOP ITS LICENSE APPLICATION. IT IS ALSO PLANNING A THOROUGH REVIEW OF DOE SITE CHARACTERIZATION PLANS. MOREOVER, DOE WILL BE CONSIDERING SITES AS CANDIDATES FOR LICENSING USING GUIDELINES IN WHICH NRC HAS CONCURRED AND WHICH THE COMMISSION HAS FOUND ARE NOT IN CONFLICT WITH ITS TECHNICAL CRITERIA. IN PUBLISHING THE PROPOSED AMENDMENTS FOR PUBLIC COMMENT, THE COMMISSION CONSIDERED THAT THERE WOULD BE AMPLE OPPORTUNITY FOR IT TO PROVIDE ITS VIEWS ON LICENSING MATTERS IN A TIMELY MANNER, AND WITHOUT INAPPROPRIATE DUPLICATION OF THE SITE SELECTION PROCESS BEING UNDERTAKEN BY DOE. THE REVISED PROCEDURES, SHOULD THEY BE IMPLEMENTED, WOULD NOT JEOPARDIZE THE COMMISSION'S ABILITY TO PROVIDE EFFECTIVE OVERSIGHT OF DOE'S HIGH-LEVEL WASTE ACTIVITIES SO AS TO PROTECT PUBLIC HEALTH AND SAFETY.

COMMISSIONER ASSELSTINE ADDS:

COMMISSIONER ASSELSTINE WOULD RETAIN THE PRESENT REQUIREMENT IN THE NRC REGULATIONS FOR NRC REVIEW OF THE SITE SCREENING AND SELECTION PROCESS. HE WOULD ALSO RETAIN THE REQUIREMENT FOR NRC ISSUANCE OF THE DRAFT SITE CHARACTERIZATION ANALYSIS FOR PUBLIC COMMENT. COMMISSIONER ASSELSTINE HAS REQUESTED PUBLIC COMMENT ON THOSE TWO ELEMENTS WHICH ARE MISSING FROM THE PROPOSED REVISIONS TO PART 60.

QUESTION 35. THE FY-86 BUDGET PROPOSAL ELIMINATED FURTHER FUNDING FOR THE INTEGRATED SAFETY ASSESSMENT PROGRAM. WHILE MANY BUDGET REDUCTIONS MAY BE NECESSARY, PLEASE DESCRIBE IN DETAIL WHY THIS PROGRAM, WHICH HOLDS SUCH PROMISE, WAS ELIMINATED.

ANSWER.

AS DESCRIBED IN THE RESPONSE TO QUESTION 14, THE TRIAL EFFORT FOR THE INTEGRATED SAFETY ASSESSMENT PROGRAM (ISAP) WOULD RELY ON VOLUNTARY PARTICIPATION. THIS APPROACH WAS TAKEN BECAUSE THE COMPREHENSIVE NATURE OF ISAP WOULD NECESSARILY INVOLVE POTENTIAL ISSUES THAT GO BEYOND OUR STATUTORY AUTHORITY SUCH AS PLANT IMPROVEMENTS.

DURING THE BUDGET PROCESS, PRIORITY WAS GIVEN TO ASSURING THE SAFE OPERATION OF POWER PLANTS, ASSURING THAT PLANTS IN THE LICENSE REVIEW PROCESS WERE NOT UNNECESSARILY DELAYED, AND THAT CERTAIN SAFETY PROGRAMS CONTINUED. GIVEN THESE PRIORITIES AND BUDGETARY CONSTRAINTS, THE ISAP WAS DEFERRED UNTIL FY 1987. SUBSEQUENTLY, WE FOUND THAT THERE IS GREATER INDUSTRY INTEREST IN THIS APPROACH THAN PREVIOUSLY PERCEIVED. AS A RESULT, WE ARE CURRENTLY CONSIDERING ALTERNATIVES TO IMPLEMENT ISAP; IN ANY CASE, WE INTEND TO CONDUCT AT LEAST A LIMITED EFFORT IN FY 1985 AND MAY CONTINUE THIS EFFORT IN FY 1986.

QUESTION 36. THE ADMINISTRATION'S PROPOSED LICENSING REFORM BILL CONTAINS NO EXPLICIT PROVISION FOR A FINAL SAFETY REVIEW OF THE FACILITY TO BE LICENSED UNDER A COMBINED CONSTRUCTION PERMIT/OPERATING LICENSE. BY THE END OF THIS CENTURY, NRC IS EXPECTED TO BE ASKED TO LICENSE A HIGH-LEVEL NUCLEAR WASTE REPOSITORY. WOULD NRC PERFORM A FINAL SAFETY REVIEW OF THE REPOSITORY, PRIOR TO ISSUANCE OF THE LICENSE, ASSURING THAT CONSTRUCTION OF THE FACILITY WAS IN ACCORDING WITH THE FACILITY'S TECHNICAL SPECIFICATIONS IF THIS LICENSING REFORM PROPOSAL IS ENACTED? IF YES, PLEASE INDICATE WHETHER SHUCH SAFETY REVIEW WOULD BE DISCRETIONARY WITH THE AGENCY.

(A) WOULD THE ADMINISTRATION'S PROPOSAL, IF ENACTED, REDUCE THE AMOUNT OF TIME NECESSARY FOR NRC TO REVIEW AND MAKE A FINAL DECISION ON A LICENSE FOR A HIGH-LEVEL NUCLEAR WASTE REPOSITORY?

(B) UNDER THE CURRENT LICENSING PROCEDURES AND THE ADMINISTRATION'S PROPOSAL, PLEASE INDICATE WHAT LEVEL OF FUNDING AND NUMBER OF FULL-TIME EMPLOYEES WOULD BE NECESSARY TO FULFILL THE NRC'S OBLIGATIONS.

ANSWER.

THE ADMINISTRATION HAS MADE NO PROPOSAL FOR A LICENSING REFORM BILL IN 1985. THEREFORE, THE COMPARISONS REQUESTED BY THE INQUIRY CANNOT BE MADE.

THE COMMISSION'S REGULATIONS REGARDING LICENSING OF A HIGH LEVEL WASTE REPOSITORY, 10 CFR PART 60, REQUIRE THAT THE DEPARTMENT OF ENERGY UPDATE ITS APPLICATION DURING THE CONSTRUCTION PHASE TO ALLOW THE NRC TO REVIEW, PRIOR TO LICENSE ISSUANCE, "CONFORMANCE OF CONSTRUCTION OF STRUCTURES, SYSTEMS, AND COMPONENTS WITH THE DESIGN." 10 CFR 60.24(B)(2). THIS REVIEW IS MANDATORY. THERE WOULD ALSO BE AN OPPORTUNITY FOR A HEARING PRIOR TO RECEIPT OF HIGH LEVEL WASTES, UNLESS THE HEARING NOTICE FOR THE CONSTRUCTION PERMIT STATED OTHERWISE BASED ON THE COMPLETNESS OF THE APPLICATION. SEE 10 CFR 2.105(A)(9).

COMMISSIONER ASSELSTINE HAS THE FOLLOWING COMMENT:

UNLIKE ITS PREVIOUS LEGISLATIVE LICENSING REFORM PROPOSALS, THE COMMISSION'S CURRENT LICENSING REFORM BILL DOES NOT INCLUDE A REQUIREMENT, IN THE CASE OF A COMBINED CONSTRUCTION PERMIT AND OPERATING LICENSE FOR A NUCLEAR POWERPLANT, FOR A FINAL SAFETY REVIEW PRIOR TO PLANT OPERATION. IN THE ABSENCE OF SUCH A REQUIREMENT, OPERATION OF THE PLANT COULD PROCEED WITHOUT A FORMAL COMMISSION REVIEW OF THE PLANT'S READINESS TO OPERATE AND WITHOUT AN EVALUATION OF OUTSTANDING SAFETY ISSUES THAT WERE NOT ADDRESSED

IN PREVIOUS LICENSING REVIEWS. SUCH REVIEWS AT THE PRE-OPERATION STAGE WOULD THEN BE PURELY DISCRETIONARY.

THE COMMISSION HAS NOT YET FINALIZED ITS LICENSING PROCEDURES FOR THE HIGH-LEVEL WASTE REPOSITORY; HOWEVER, THE COMMISSION HAS STATED ON PREVIOUS OCCASIONS THAT IT EXPECTS THAT THE REPOSITORY LICENSING PROCESS WILL BE VERY SIMILAR TO THE LICENSING PROCESS IN USE FOR NUCLEAR POWERPLANTS. IT IS THEREFORE VERY LIKELY THAT THE COMMISSION WILL ADOPT MANY OF THE LEGISLATIVE AND ADMINISTRATIVE "LICENSING REFORM" MEASURES NOW BEING CONSIDERED IN THE REACTOR AREA WHEN THE COMMISSION DEVELOPS THE DETAILED ELEMENTS OF THE REPOSITORY LICENSING PROCESS. INDEED, THE COMMISSION HAS SOMEWHAT MORE FLEXIBILITY TO ADOPT SUCH MEASURES ADMINISTRATIVELY FOR THE REPOSITORY THAN IS THE CASE FOR NUCLEAR POWERPLANTS. TWO "REFORM" MEASURES NOW BEING PROPOSED BY THE COMMISSION WOULD BE PARTICULARLY TROUBLESOME IN THE CASE OF THE REPOSITORY. THE FIRST OF THESE IS THE ELIMINATION OF A REQUIRED SAFETY REVIEW AT THE PRE-OPERATION STAGE OF ALL ISSUES NOT RESOLVED IN PREVIOUS LICENSING STAGES. THE SECOND IS THE FLEXIBILITY TO DISPENSE WITH A HEARING AT THE PRE-OPERATION STAGE ON ISSUES THAT COULD NOT HAVE BEEN RESOLVED PRIOR TO FACILITY CONSTRUCTION. IF ADOPTED, THESE MEASURES COULD SUBSTANTIALLY RESTRICT THE ROLE OF STATE GOVERNMENTS AND THE PUBLIC IN THE LICENSING PROCESS FOR THE REPOSITORY.

QUESTION 37. IN RESPONSE TO QUESTION POSED BY THE COMMITTEE, THE NRC INDICATED THAT BUDGET REDUCTIONS, IF IMPLEMENTED, WOULD DELAY CONSTRUCTION OF THE EXPLORATORY SHAFT FACILITY BY DOE FOR HIGH-LEVEL WASTE SITE CHARACTERIZATION BY SIX MONTHS. EVEN WITH THE ADDITIONAL AMOUNT OF TIME THAT IS AVAILABLE, ARE YOU CONFIDENT THAT THE NRC WILL BE ABLE TO PERFORM A THOROUGH AND INDEPENDENT ASSESSMENT OF DOE PLANS AND ACTIVITIES? IF NOT, WHAT LEVEL OF FUNDING IS NECESSARY TO ASSURE QUALITY NRC OVERSIGHT?

ANSWER.

THE LEVEL OF RESOURCES PROVIDED DOES NOT LESSEN OUR CONFIDENCE IN OUR ABILITY TO PERFORM A THOROUGH AND INDEPENDENT ASSESSMENT OF DOE PLANS AND ACTIVITIES FOR THE FIRST REPOSITORY. IT DOES LESSEN OUR CONFIDENCE IN OUR ABILITY TO CONTINUE TO MEET THE TIGHT DEADLINES THAT DOE IS ESTABLISHING FOR THE NATIONAL PROGRAM.

QUALITY NRC OVERSIGHT IS ASSURED FOR THE FIRST REPOSITORY AT THE PRESENT LEVEL OF FUNDING. AN ADDITIONAL 7 FTE AND $1.8 MILLION IS NECESSARY TO ENSURE THAT WE MAINTAIN PACE WITH THE NATIONAL PROGRAM IN OUR HIGH LEVEL WASTE LICENSING PROGRAM.

WHILE WE DO NOT ANTICIPATE ANY NEAR TERM DELAYS TO RESULT FROM THE $6.6M OMB CUT TO THE HIGH LEVEL WASTE RESEARCH PROGRAM IN FY86, IT MAY RESULT IN INCREASED UNCERTAINTIES AT THE TIME OF LICENSING.

QUESTION 38. WITHIN THE ADMINISTRATION'S CURRENT FY86 BUDGET, CAN YOU MAINTAIN ADEQUATE RESEARCH PROGRAMS AT THE NATIONAL LABS?

QUESTION 39. WHAT WILL BE THE IMPACT OF THE ADMINISTRATION'S BUDGET REQUEST ON REACTOR SAFETY RESEARCH? WILL THE PROGRAMS AT THE NATIONAL LABS BE MAINTAINED AT A VIABLE AND USEFUL LEVEL?

QUESTION 40. THE RECENT DECLINE IN REACTOR SAFETY RESEARCH FUNDING AT OAK RIDGE NATIONAL LABORATORY WAS ROUGHLY $20 MILLION IN FY84 TO $13 MILLION IN FY86. FURTHER DECLINES ARE PROJECTED, WHICH IS CAUSE FOR CONCERN SINCE THE RESEARCH PRODUCED VALUABLE ANALYSES OF THE SAFETY OF POWER PLANT OPERATING CONDITIONS. WHAT WILL BE THE IMPACTS OF THE CURRENT BUDGET PROPOSAL ON THIS RESEARCH PROGRAM?

QUESTION 38, 39, 40. (CONTINUED) - 2 -

ANSWER.

THE TABLE BELOW REFLECTS RES ESTIMATES BY DOE LABORATORY.

	(IN MILLIONS) NRC RESEARCH			TOTAL LAB LEVEL
LABORATORY	FY 84	FY 85	FY 86	FY 85
ARGONNE NATIONAL LABORATORY	$ 7.3	$ 4.7	$ 4.5	$226.0
BROOKHAVEN NATIONAL LABORATORY	8.5	8.2	6.7	230.0
IDAHO NATIONAL ENGINEERING LAB	40.9	28.3	19.0	272.0
LAWRENCE LIVERMORE NATIONAL LAB	4.1	2.7	1.5	798.0
LOS ALAMOS NATIONAL LABORATORY	11.5	8.1	8.5	703.0
SANDIA NATIONAL LABORATORIES	31.8	23.6	22.3	994.0
OAK RIDGE NATIONAL LABORATORY	22.5	17.6	13.4	364.0

AS NOTED IN THE ABOVE TABLE, THE FY 1986 APPROPRIATIONS REQUEST FOR RES SUPPORTS AN ADEQUATE, VIABLE, AND USEFUL PROGRAM AT THE NATIONAL LABORATORIES. HOWEVER, THESE ESTIMATES REQUIRE SOME

CONSOLIDATION OF WORK AND THE ELIMINATION OF CERTAIN TECHNICAL EXPERTISE IN AREAS WHICH WILL NOW BE TERMINATED. IN THE REDUCTION OF PROGRAM RESOURCES, WE HAVE MADE NO CONSCIOUS ATTEMPT TO ELIMINATE ANY PARTICULAR LABORATORY BUT RATHER TO MAXIMIZE RES TECHNICAL STRENGTHS WITHIN THE DOE LABORATORY COMMUNITY. HOWEVER, AS THE CHAIRMAN INDICATED IN HIS TESTIMONY, A REDUCED RESEARCH BUDGET WILL NECESSITATE CONCENTRATING EFFORT IN PARTICULAR LABORATORIES.

THE PRINCIPLE IMPACT OF THE OMB REDUCTIONS FOR THE FY 1986 RESEARCH PROGRAMS ARE DISCUSSED BELOW AND GENERALLY RESULT IN THE AGENCY'S INABILITY TO QUANTIFY THE AMOUNT OF REGULATORY CONSERVATISM. GENERALLY, THESE CONSERVATIVE POSITIONS COULD LEAD TO (1) EXPENDING INDUSTRY AND NRC RESOURCES TO CONDUCT UNNECESSARY ANALYSES; (2) UNNECESSARY REDUCTIONS IN PLANT ELECTRICAL POWER GENERATION AND (3) UNNECESSARY PLANT SHUTDOWNS, PENDING RESOLUTION OF PROBLEMS WHEN THEY ARISE.

REACTOR ENGINEERING

- TERMINATION OF INSTRUMENTATION AND CONTROL WORK WILL LEAD TO UNCERTAINTIES REGARDING CAPACITY OF PLANT SHUTDOWN SYSTEMS TO PERFORM UNDER CONDITIONS NOT PREVIOUSLY ANALYZED.

- TERMINATION OF EFFORTS ON CONTAMINATION OF FUEL STORAGE FACILITIES BY FAILED FUEL WILL LEAD TO UNCERTAINTIES REGARDING EQUIPMENT AND PROCEDURES NECESSARY FOR HANDLING AND RECOVERY OF FUEL PLACED IN MONITORED RETRIEVABLE STORAGE FACILITIES.

COMMISSIONER ASSELSTINE ADDS:
I AM TROUBLED THAT THIS COMMISSION NOT ONLY REFUSES TO REDUCE THE MAIN CONTRIBUTOR TO THE RISKS TO THE PUBLIC HEALTH AND SAFETY (SEE QUESTION 14) BUT IS ALSO CONSIDERING INCREASING THESE RISKS BY INCREASING THE POWER LEVEL OF THE NUCLEAR REACTORS. I AM NOT PERSUADED THAT THE MONIES SHOULD BE SPENT FOR RESEARCH PROGRAMS WHICH HAVE AS THEIR PRIMARY OBJECTIVE INCREASING THE POWER LEVELS OF THE PLANTS. I BELIEVE THAT EQUIVALENT EFFORTS SHOULD BE MADE BY INDUSTRY AND NRC TO ENDURE SEVERE ACCIDENT RISKS TO THE PUBLIC.

THERMAL HYDRAULIC TRANSIENTS

- TERMINATION OF PLANNING EFFORT FOR A MODULAR TEST FACILITY WILL STOP IMPLEMENTATION OF A FLEXIBLE U.S. TEST FACILITY TO PROVIDE REACTOR SYSTEM BEHAVIOR INFORMATION UNDER ACCIDENT OR SEVERE TRANSIENT CONDITIONS IN ORDER TO PERMIT FUTURE RESPONSE TO UNUSUAL PLANT UPSET CONDITIONS, E.G., TMI.

QUESTION 38, 39, 40. (CONTINUED) - 5 -

ACCIDENT EVALUATION

- TERMINATION OF ALL WORK BEYOND DEGRADED CORE EXCEPT TO ENVELOPE SEVERE ACCIDENTS FOR CONTAINMENT LOADS WILL RESULT IN UNCERTAINTIES IN THE IMPLEMENTATION OF SEVERE ACCIDENTS POLICY AND GREATER RELIANCE ON CONSERVATIVE SOLUTIONS.

- TERMINATES ALL HTGR RELATED REACTOR SAFETY RESEARCH.

- NO NRC FUNDS PROVIDED FOR PBF DECONTAMINATION AND DECOMMISSIONING ACTIVITIES.

REACTOR OPERATIONS AND RISK

- TERMINATION OF ALL HUMAN FACTORS RESEARCH WILL RESULT IN LACK OF TECHNICAL BASIS FOR THE DEVELOPMENT OF REGULATORY POSITIONS.

WASTE MANAGEMENT, EARTH SCIENCES, AND HEALTH

- REDUCTION IN HIGH LEVEL WASTE RESEARCH WILL RESULT IN DELAYS IN DEVELOPMENT OF INDEPENDENT PERFORMANCE MODEL DEVELOPMENT FOR BASALT AND TUFF BY TWO TO THREE YEARS. TECHNICAL BASIS FOR MODELS TO EVALUATE DOE PERFORMANCE DEMONSTRATION WILL BE FROZEN TO WHAT WE KNOW TODAY.

- DEFERMENT OF SOME LOW LEVEL WASTE MANAGEMENT RESEARCH WILL NECESSITATE UNDUE CONSERVATISM IN THE LICENSING OF LLW DISPOSAL BY THE NRC OR NRC AGREEMENT STATES.

QUESTION 41. (A) PLEASE PROVIDE A SUMMARY TO DATE OF NRC ACTIVITIES IN RELATION TO GEOLOGICAL WASTE REPOSITORY LICENSING AND MONITORED RETRIEVABLE STORAGE (MRS) FACILITY LICENSING.

ANSWER.

IN ORDER TO PROVIDE FOR AN EFFECTIVE AND EFFICIENT LICENSING PROCESS FOR THE GEOLOGIC WASTE REPOSITORY, THE NRC IS CONTINUING ITS PROGRAM TO: DEVELOP METHODS FOR DEMONSTRATING COMPLIANCE WITH PERFORMANCE OBJECTIVES; PROVIDING GUIDANCE TO ASSURE THAT THE DOE PROGRAM PROVIDES ESSENTIAL AND ACCEPTABLE DATA WITHOUT COSTLY DELAY OR REWORK; PROVIDE ONSITE OVERVIEW OF DOE ACTIVITIES; IDENTIFY AND RESOLVE ISSUES; AND PROVIDE APPROPRIATE AND TIMELY REVIEW AND EVALUATION OF DOE SUBMITTALS.

TO PREPARE FOR LICENSING OF MRS, SHOULD IT BE AUTHORIZED BY CONGRESS, NRC STAFF HAS ESTABLISHED CLOSE CONTACT WITH DOE DURING PREPARATION OF THE MRS PROPOSAL TO DEVELOP AND MAINTAIN NRC FAMILIARITY WITH THE CONCEPTUAL DESIGNS BEING PURSUED. NRC HAS ADVISED DOE THAT THE TECHNICAL CRITERIA OF ITS RULE FOR THE LICENSING OF SPENT FUEL STORAGE OPERATIONS, 10 CFR PART 72, ARE CONSIDERED APPLICABLE TO THE DESIGN, CONSTRUCTION AND OPERATION OF MRS FACILITIES. CONCURRENTLY, THE NRC IS PREPARING A PROPOSED REVISION OF PART 72 FOR PUBLIC COMMENT TO EXPLICITLY COVER MRS LICENSING.

QUESTION 41.

(B) WHAT ARE THE NRC'S PLANS FOR ACTIVITIES IN THESE TWO AREAS FOR FY 1986?

ANSWER.

EXTENSIVE NUCLEAR REGULATORY COMMISSION PREAPPLICATION REVIEWS OF DEPARTMENT OF ENERGY'S SITE INVESTIGATIONS WILL CONTINUE AT A LEVEL THAT KEEPS DELAYS TO THE DEPARTMENT OF ENERGY'S PROGRAM TO A MINIMUM. THESE INVESTIGATIONS INCLUDE CONSTRUCTION OF SHAFTS, TESTING OF GEOLOGIC PROPERTIES, AND OTHER TECHNICAL ACTIVITIES. EVERY EFFORT WILL BE MADE TO MAINTAIN CLOSE INTERACTION WITH THE DEPARTMENT OF ENERGY, THE STATES, AFFECTED INDIAN TRIBES, THE TECHNICAL COMMUNITY AND OTHER INTERESTED MEMBERS OF THE PUBLIC TO IDENTIFY AND BEGIN THE RESOLUTION OF LICENSING ISSUES AT THE EARLIEST POSSIBLE DATE TO MINIMIZE COSTLY DELAYS OR REWORK BY THE DEPARTMENT OF ENERGY.

THE DEPARTMENT OF ENERGY'S SITE CHARACTERIZATION PLANS FOR THREE POTENTIAL SITES FOR THE FIRST REPOSITORY WILL BE REVIEWED IN THE FY 1985 - FY 1987 PERIOD. STAFF WILL STRIVE TO COMPLETE THE CRITICAL PORTION OF THESE REVIEWS ON A SCHEDULE THAT RESULTS IN A MINIMUM OF DISRUPTION TO THE DEPARTMENT OF ENERGY'S ACTIVITIES.

AN ISSUE MANAGEMENT SYSTEM WILL BE DEVELOPED AND IMPLEMENTED IN FY 1985 - FY 1987 TO HELP ENSURE THAT CRITICAL PROGRAM ISSUES ARE PROPERLY IDENTIFIED, MANAGED, AND TRACKED TO RESOLUTION.

Development of work will continue on technical positions, system performance assessment, and guidance for licensing reviews in the areas of waste form and packaging, barriers to radionuclide migration and geologic setting.

A rulemaking will be initiated to amend regulations (Parts 51 and 60 of Title 10 of the Code of Federal Regulations) to conform to the requirements of the Nuclear Waste Policy Act that the Nuclear Regulatory Commission, to the extent practicable, adopt the environmental impact statements prepared by the Department of Energy in connection with the proposed repository. A rulemaking to clarify the definition of high-level waste (Part 60) and to establish methods for demonstrating compliance with performance objectives for barriers, waste packages, and groundwater travel times (Part 60) will continue. Licensing guidance will be prepared and provided to the Department of Energy on issues concerning the geologic settings and repository design and performance.

Development of performance assessment models and computer codes necessary for licensing reviews will continue. These models and computer codes will contribute to rulemaking activities, the preparation of technical positions, and site characterization analyses.

For MRS, the NRC will maintain its contact with DOE on pre-licensing aspects to provide regulatory guidance, as appropriate, and will complete final modifications of 10 CFR Part 72 to provide the regulatory framework for MRS licensing.

QUESTION 41. - 5 -

(C) HOW MUCH MONEY IS PROVIDED FOR EACH OF THESE TWO ACTIVITIES IN THE FY86 BUDGET?

ANSWER.

THE NRC'S FY86 REQUEST FOR THE GEOLOGICAL REPOSITORY PROGRAM IS APPROXIMATELY 133 FTE AND $18.8 MILLION, WHICH INCLUDES TOTAL FUNDS FOR SALARIES AND BENEFITS, ADMINISTRATIVE SUPPORT, CONTRACTUAL SUPPORT, AND TRAVEL. THESE RESOURCES ARE FOR THE LICENSING AND RESEARCH PROGRAMS, NWPA PROGRAM INTEGRATION, AND SUPPORT PROVIDED BY OFFICES THROUGHOUT THE NRC.

FOR MRS, THE NRC HAS BUDGETED APPROXIMATELY TWO STAFF YEARS FOR PRELICENSING AND RULEMAKING ACTIVITIES.

QUESTION 42. (A) SHOULD THE MRS OPTION PROCEED IN CONJUNCTION WITH GEOLOGICAL WASTE DISPOSAL, WILL THE NRC BE PREPARED TO PROCESS A LICENSE FOR SUCH AN MRS FACILITY WITHIN THE 1989-91 TIMEFRAME?

ANSWER.

THE NRC WILL HAVE IN PLACE THE REGULATORY FRAMEWORK FOR LICENSING THE MRS AND BE PREPARED FOR REVIEW OF AN APPLICATION FROM DOE IN THE SPECIFIED TIMEFRAME.

(B) WHAT WOULD THE COST ESTIMATE BE FOR SUCH A LICENSING PROCEDURE?

ANSWER.

BASED ON THE PRESENT DESIGN CONCEPTS BEING PURSUED FOR MRS BY DOE, THE NRC STAFF ESTIMATES THAT ABOUT FIVE STAFF YEARS AND $750K FOR CONTRACTUAL TECHNICAL ASSISTANCE WILL BE REQUIRED FOR STAFF REVIEW OF THE MRS APPLICATION. ACCORDING TO THE NRC STAFF EXTENSIVE PUBLIC HEARINGS THAT MAY OCCUR IN CONNECTION WITH THE LICENSING PROCESS WOULD ADD ABOUT TWO STAFF YEARS TO THE ABOVE ESTIMATE FOR STAFF TECHNICAL REVIEWS.

QUESTION 42.

(C) WHAT WOULD BE THE SPECIFIC STEPS REQUIRED IN SUCH A LICENSING PROCEDURE?

ANSWER.

THE COMMISSION HAS NOT YET APPROVED A LICENSING PROCEDURE FOR THE MRS. WE WILL PROVIDE DETAILS WHEN THE COMMISSION REACHES A DECISION ON THIS MATTER.

QUESTION 43. IN THE RECENTLY RELEASED AMERICAN PHYSICAL SOCIETY (APS) STUDY ON SOURCE-TERM, THE STUDY GROUP CONCLUDED THAT DESPITE $265 MILLION ALREADY SPENT ON REACTOR SAFETY RESEARCH RELATED TO SOURCE-TERM, THIS RESEARCH CANNOT YET BE REGARDED AS ADEQUATE OR COMPREHENSIVE. THEY WENT ON TO IDENTIFY SPECIFIC AREAS WHERE ADDITIONAL RESEARCH IS NEEDED.

(A) WHAT ARE THE NRC'S PLANS IN RESPONSE TO THE APS RECOMMENDATIONS THAT "NRC SHOULD CONTINUE TO INSURE A STRONG, INTEGRATED PROGRAM OF EXPERIMENTAL AND ANALYTICAL STUDIES IN ORDER TO PROVIDE A SOUND DATA BASE FOR CALCULATION OF THE SOURCE-TERM."

ANSWER.

WE BELIEVE THAT THE AMERICAN PHYSICAL SOCIETY OVERALL CONCLUSIONS WERE THAT "CONSIDERABLE PROGRESS HAS BEEN MADE......IN DEVELOPING BOTH A SCIENTIFIC BASIS AND CALCULATIONAL ABILITY FOR PREDICTING THE SOURCE TERM.", AND "THE STUDY GROUP BELIEVES THAT IT IS NOT YET POSSIBLE TO DERIVE FACTORS BY WHICH THE SOURCE TERMS FOR ALL RADIONUCLIDES AND ALL REACTORS CAN BE CHANGED FROM THE VALUES

REPORTED IN THE VALUES REPORTED IN THE REACTOR SAFETY STUDY. RESEARCH THAT IS CURRENTLY IN PROGRESS WILL IMPROVE THIS SITUATION AND MAY ENABLE SUCH FACTORS TO BE DETERMINED FOR ALL IMPORTANT RADIONUCLIDES AND REACTOR SEQUENCES." PROFESSOR WILSON, CHAIRMAN OF THE STUDY GROUP, INDICATED, IN HIS VERBAL REMARKS BEFORE THE COMMISSION, THAT HE DID NOT FORSEE AN UNENDING NEED FOR RESEARCH, THAT THE NEEDED ANSWERS WOULD BE FORTHCOMING IN THE NEAR FUTURE IN NO MORE THAN TWO TO FIVE YEARS; THUS IMPLYING THAT THE EXISTING RESEARCH PROGRAM WAS WELL ALONG AND PROCEEDING TO PRODUCE THE ANSWERS. NRC PLANS TO CONTINUE A STRONG, INTEGRATED PROGRAM OF EXPERIMENTAL AND ANALYTICAL STUDIES IN ORDER TO PROVIDE A SOUND DATA BASE FOR CALCULATION OF THE SOURCE TERM. THE RESEARCH PROGRAM WILL BE STRENGTHENED IN THE AREAS RECOMMENDED BY APS SUCH AS IN CORE-CONCRETE INTERACTIONS. AS MENTIONED, IN THE ANSWER TO QUESTION 3, NRC'S ABILITY TO MAINTAIN A STRONG RESEARCH PROGRAM IN SOURCE TERM WILL DEPEND AT A MINIMUM ON MAINTENANCE OF THE PROPOSED LEVELS OF FUNDING FOR FY 1986. AS STATED IN THAT ANSWER, NRC IS STILL EVALUATING THE RESOURCES REQUIRED TO MEET THE APS RECOMMENDATIONS, BUT DOES NOT ANTICIPATE A NEED FOR LARGE INCREASES.

QUESTION 43. - 3 -

(B) IN VIEW OF NRC'S INTEREST IN CONTINUED TESTS AT PBF, HOW CAN THIS FACILITY BE BEST USED TO ADDRESS THE RESEARCH NEEDS IDENTIFIED IN THE APS STUDY?

ANSWER

NRC HAS COMPLETED ITS TEST PROGRAM AT PBF CONCLUDING A SUCCESSFUL FOUR TEST SERIES OF SEVERE FUEL DAMAGE TESTS IN FEBRUARY 1985. NRC IS PLANNING TO COMPLETE THE IN-REACTOR PORTION OF ITS SEVERE FUEL DAMAGE INFORMATION NEEDS PROGRAM IN THE MORE COST EFFECTIVE ANNULAR CORE RESEARCH REACTOR IN NEW MEXICO AND THE NRU RESEARCH REACTOR IN CANADA. BECAUSE OF RESOURCE LIMITATIONS MENTIONED PREVIOUSLY IN THE ANSWERS TO QUESTION 3 AND THE A. PORTION OF THIS QUESTION, NRC IS UNABLE TO CONTINUE CARRYING THE FULL RESPONSIBILITY FOR THE OPERATION OF THE PBF REACTOR.

QUESTION 44. (A) HOW MANY LICENSES AUTHORIZING FULL POWER OPERATIONS WERE APPROVED BY THE NRC IN 1984?

ANSWER.

DURING CALENDAR YEAR 1984, SIX PLANTS RECEIVED FULL-POWER AUTHORIZATIONS:

LA SALLE 2
WNP-2
SUSQUEHANNA 2
CALLAWAY
DIABLO CANYON 1
GRAND GULF 1

(B) OF THOSE, WHAT WAS THE NUMBER OF INSTANCES IN WHICH A LOCAL, COUNTY, OR STATE GOVERNMENTAL ENTITY REFUSED, AT ANY POINT IN THE DEVELOPMENT OR TESTING OF A PLANT'S OFFSITE EMERGENCY EVACUATION PLANT, TO PARTICIPATE IN THE EMERGENCY PLANNING PROCESS?

ANSWER.

OF THE SIX NUCLEAR POWER PLANTS RECEIVING AUTHORIZATION FOR FULL POWER OPERATION IN 1984, THERE WERE NO CASES WHERE A LOCAL, COUNTY, OR STATE GOVERNMENTAL ENTITY REFUSED TO PARTICIPATE IN THE EMERGENCY PLANNING PROCESS. AS THE CHAIRMAN TESTIFIED ON MARCH 7, 1985, THERE MAY HAVE BEEN PROBLEMS BUT THEY WERE RESOLVED.

QUESTION 45. SENATE REPORT 98-502 (P.222-3) WHICH ACCOMPANIED HR 5653, THE FY 1985 ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL DIRECTED THE NRC:

". . . IN CONNECTION WITH LICENSING DECISIONS AND IN CONSULTATIONS WITH FEMA TO DETERMINE THOSE DISCREPANCIES WHICH ARE EASILY CORRECTABLE AND NOT SUBSTANTIAL IMPORTANT TO THE PUBLIC HEALTH AND SAFETY AND DISTINGUISH THEM FROM DISCREPANCIES WHICH ARE BOTH NOT SUSCEPTIBLE OF READY RESOLUTION BY THE UTILITY AND ARE OF SUBSTANTIAL IMPORTANCE TO THE PROTECTION OF THE PUBLIC HEALTH AND SAFETY. IT SHALL THEN ISSUE SUCH REGULATIONS AS MAY BE NECESSARY TO ALLOW APPROPRIATE ACTION TO BE TAKEN TO LICENSE PLANTS WHILE PROTECTING THE PUBLIC HEALTH AND SAFETY."

(A) HAS THE NRC TAKEN ANY ACTION IN THE CURRENT FISCAL YEAR TO IMPLEMENT THE DIRECTIVE CONTAINED IN S.REP. 98-502?

ANSWER.

BOTH NRC AND FEMA REQUIREMENTS PROVIDE FOR THE IDENTIFICATION OF DEFICIENCIES IMPORTANT TO THE PUBLIC HEALTH AND SAFETY AS OPPOSED

TO OTHER DEFICIENCIES OF LESSER SIGNIFICANCE THAT MAY BE OBSERVED PRIOR TO LICENSING* A PLANT; ONLY THE FORMER PRESENT A POTENTIAL IMPEDIMENT TO LICENSING A PLANT. IF DEFICIENCIES ARE PRESENT, THE APPLICANT WILL HAVE THE OPPORTUNITY TO DEMONSTRATE TO THE COMMISSION THAT THEY ARE NOT SIGNIFICANT FOR THE PLANT IN QUESTION, THAT ADEQUATE INTERIM COMPENSATORY ACTIONS HAVE BEEN OR WILL BE TAKEN PROMPTLY, OR THAT THERE ARE OTHER COMPELLING REASONS TO PERMIT PLANT OPERATION. NO ACTION APPEARS NECESSARY TO IMPLEMENT THIS PORTION OF THE COMMITTEE'S REQUIREMENT.

REGARDING THE TREATMENT OF DEFICIENCIES THAT ARE IMPORTANT TO PUBLIC HEALTH AND SAFETY BUT THAT ARE NOT READILY SUSCEPTIBLE TO UTILITY RESOLUTION, THIS ASPECT OF THE COMMITTEE'S REQUIREMENT APPEARS TO RELATE TO INSTANCES WHERE STATE OR LOCAL ENTITIES FAIL TO IMPLEMENT CORRECTIVE ACTIONS TO RESOLVE DISCREPANCIES IN OFFSITE PLANS OR WHERE THEY ARE NOT PARTICIPATING IN THE PLANNING PROCESS.

10 CFR 50.47(A) PROVIDES IN PART: NO OPERATING LICENSE FOR A NUCLEAR POWER REACTOR WILL BE ISSUED UNLESS A FINDING IS MADE BY NRC THAT THERE IS REASONABLE ASSURANCE THAT ADEQUATE PROTECTIVE

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*NOTE THAT FINDINGS CONCERNING THE STATE OF OFFSITE EMERGENCY PREPAREDNESS ARE NOT REQUIRED PRIOR TO ISSUANCE OF AN OPERATING LICENSE AUTHORIZING ONLY FUEL LOADING OR LOW POWER.

MEASURES CAN AND WILL BE TAKEN IN THE EVENT OF A RADIOLOGICAL EMERGENCY. THE NRC WILL BASE ITS FINDING ON A REVIEW OF THE FEMA FINDINGS AND DETERMINATIONS AS TO WHETHER STATE AND LOCAL EMERGENCY PLANS ARE ADEQUATE AND WHETHER THERE IS REASONABLE ASSURANCE THAT THEY CAN BE IMPLEMENTED. 10 CFR 50.47(c)(1) PROVIDES IN PART: FAILURE TO MEET THE APPLICABLE STANDARDS SET FORTH IN PARAGRAPH (B) OF THIS SECTION MAY RESULT IN THE COMMISSION DECLINING TO ISSUE AN OPERATING LICENSE; HOWEVER, THE APPLICANT WILL HAVE AN OPPORTUNITY TO DEMONSTRATE TO THE SATISFACTION OF THE COMMISSION THAT DEFICIENCIES IN THE PLANS ARE NOT SIGNIFICANT FOR THE PLANT IN QUESTION, THAT ADEQUATE INTERIM COMPENSATING ACTIONS HAVE BEEN OR WILL BE TAKEN PROMPTLY, OR THAT THERE ARE OTHER COMPELLING REASONS TO PERMIT PLANT OPERATION.

SUCH ASSURRANCE WOULD ONLY BE PROVIDED BY A STATUTE REQUIRING STATE AND LOCAL PARTICIPATION IN OFFSITE PLANNING, PREPAREDNESS AND IMPLEMENTATION, AND THEIR IMPLEMENTATION OF CORRECTIVE ACTIONS WHEN NECESSARY TO RESOLVE DISCREPANCIES OF OFFSITE PLANS.

IT IS NOT PRESENTLY POSSIBLE TO PREDICT WHETHER FEMA WOULD RECOMMEND OR NRC WOULD APPROVE AN OFFSITE EMERGENCY PLAN IN THE ABSENCE OF STATE OR LOCAL ACTION. HOWEVER, DEPENDING ON THE CIRCUMSTANCES OF A PARTICULAR CASE, THERE MAY EXIST LEGAL IMPEDIMENTS TO THE IMPLEMENTATION OF AN OFFSITE PLAN WITHOUT SUCH ACTION, AND THESE LEGAL IMPEDIMENTS COULD PREVENT FEMA AND THE NRC FROM REACHING A FAVORABLE FINDING ON OFFSITE EMERGENCY PREPAREDNESS. FOR EXAMPLE, THE ADEQUACY OF A UTILITY-SPONSORED OFFSITE EMERGENCY PLAN FOR

THE SHOREHAM FACILITY WAS LITIGATED IN THE NEW YORK STATE COURTS. TWO RELATED LEGAL ISSUES AROSE IN THAT PROCEEDING (1) WHETHER THE UTILITY HAS THE LEGAL AUTHORITY, UNDER STATE LAW, TO PERFORM CERTAIN FUNCTIONS WHICH WE NORMALLY WOULD EXPECT STATE AND LOCAL OFFICIALS TO PERFORM DURING AN EMERGENCY, AND (2) WHETHER, IF STATE LAW WITHHOLDS SUCH LEGAL AUTHORITY FROM THE UTILITY, THERE EXISTS ANY FEDERAL STATUTE OR REGULATION WHICH WOULD PREEMPT THE OPERATION OF THAT STATE LAW AND ALLOW THE UTILITY TO IMPLEMENT ITS PLAN REGARDLESS OF STATE LAW. THE NEW YORK COURT ISSUED A DECLARATORY JUDGEMENT THAT LILCO HAD NO AUTHORITY UNDER STATE LAW TO IMPLEMENT AN OFFSITE EMERGENCY RESPONSE PLAN WHICH LILCO HAD PREPARED. QUESTIONS PERTAINING TO WHETHER THE ATOMIC ENERGY ACT AND OTHER FEDERAL STATUTES PREEMPT STATE LAW IN THIS AREA WERE NOT RULED UPON. IT IS EXPECTED THAT THE TRIAL COURT'S DECISION WILL BE APPEALED. IN A SEPARATE CASE, ON MARCH 18, 1985 A FEDERAL DISTRICT COURT DETERMINED THAT THE ATOMIC ENERGY ACT DID NOT MANDATE THAT SUFFOLK COUNTY COOPERATE WITH LILCO IN EMERGENCY PLANNING.

COMMISSIONER ASSELSTINE BELIEVES THAT THIS ISSUE RAISES CONSTITUTIONAL QUESTIONS WHICH ARE NOT RECOGNIZED BY THE COMMISSION RESPONSE.

QUESTION 45.

(B) WHAT FUNDS HAVE BEEN, OR ARE EXPECTED TO BE EXPENDED IN THE DEVELOPMENT OF SUCH REGULATIONS?

ANSWER.

FOR THE REASONS STATED IN RESPONSE TO QUESTION 45.A, THE COMMISSION HAS NOT EXPENDED FUNDS IN THE DEVELOPMENT OF SUCH REGULATIONS.

QUESTION 45.

(C) HAVE ANY OF THE PLANTS AUTHORIZED FOR FULL POWER IN FY 1985 BEEN AFFECTED BY RULES OR REGULATIONS PROMULGATED IN RESPONSE TO THE DIRECTIVE CONTAINED IN S.REP. 98-502? WHICH PLANTS?

ANSWER.

NO SUCH RULES OR REGULATIONS HAVE BEEN PROMULGATED.

QUESTION 46: AS A RESULT OF THE OMB BUDGET MARK FOR FY86, THE NRC WILL ONLY ADDRESS HIGH PRIORITY GENERIC AND HUMAN FACTORS ISSUES. WHAT IS THE SAFETY SIGNIFICANCE OF THE "MEDIUM PRIORITY" ISSUES AND IS THE NRC COMFORTABLE DEFERRING THE RESOLUTION OF THESE ISSUES?

ANSWER:

SEE ANSWER TO QUESTION 12.

QUESTION 47. PLEASE PROVIDE A LIST OF THE MEDIUM PRIORITY ISSUES, IN THE RANKING OF SIGNIFICANCE OF THE COMMISSION IF POSSIBLE, THAT WILL NOT BE ADDRESSED UNDER THE PROPOSED FY 86 BUDGET.

ANSWER.

THE PROPOSED FY 86 BUDGET CONSTRAINTS WILL ONLY APPLY TO THE RESOLUTION OF NEW ISSUES, IDENTIFIED AS MEDIUM PRIORITY ISSUES AFTER THE FIRST HALF OF FY 85. WE ANTICIPATE, BASED ON EXPERIENCE, THAT ABOUT FIVE ISSUES WILL BE DESIGNATED AS MEDIUM PRIORITY ISSUES EACH YEAR. SINCE THE ISSUES TO BE AFFECTED HAVE NOT YET BEEN IDENTIFIED, THEY CANNOT BE LISTED. IT SHOULD BE NOTED THAT EVEN AFTER THE LIST OF NEW MEDIUM PRIORITY ISSUES IS GENERATED, WE WOULD NOT BE ABLE TO RANK THE LIST IN ORDER OF SIGNIFICANCE. THE PRIORITIZATION PROCESS IS NOT PRECISE ENOUGH TO MEANINGFULLY RANK ISSUES WITHIN A PRIORITY CATEGORY. DIFFERENCES IN SIGNIFICANCE OF ISSUES BECOME CLEAR ONLY AFTER A REGULATORY ANALYSIS HAS BEEN PERFORMED AND A TECHNICAL RESOLUTION HAS BEEN IDENTIFIED. THE RESOLUTION EFFORTS ON EXISTING MEDIUM PRIORITY GENERIC ISSUES WILL CONTINUE WITH ALL EXISTING MEDIUM PRIORITY ISSUES SCHEDULED FOR RESOLUTION BY FY 88.

QUESTION 47. - 2 -

COMMISSIONER ASSELSTINE ADDS:

COMMISSIONER ASSELSTINE HAS THE FOLLOWING COMMENT: I AM GRATIFIED THAT THE STAFF HAS APPARENTLY FOUND THE RESOURCES TO DO SOME ADDITIONAL WORK ON THE MEDIUM PRIORITY SAFETY ISSUES BEYOND WHAT WAS PROPOSED BY THE STAFF AND APPROVED BY A MAJORITY OF THE COMMISSION IN THE FY86 BUDGET PROPOSAL.

QUESTION 48. WHAT NUMBER OF NEW GENERIC OR HUMAN FACTORS ISSUES DOES THE COMMISSION EXPECT TO IDENTIFY IN FY86?

ANSWER.

THE NRC CONTINUES TO FOLLOW THE PROCEDURE OUTLINED IN NUREG-0933 OF IDENTIFYING POTENTIAL GENERIC SAFETY AND HUMAN FACTORS ISSUES AND PRIORITIZING THEIR SAFETY SIGNIFICANCE. HISTORICAL TRENDS INDICATES THAT IN FY 1986, THE NRC EXPECTS THAT ABOUT 12 ISSUES WILL BE IDENTIFIED AND PRIORITIZED AS HIGH OR MEDIUM, SOME OF WHICH WILL BE HUMAN FACTORS.

QUESTION 49. MY REVIEW OF THE TRANSCRIPTS OF A JANUARY 29 MEETING OF THE COMMISSIONERS WITH REGIONAL STAFF RAISES A CONCERN REGARDING THE INSTITUTE OF NUCLEAR POWER OPERATIONS (INPO). MY READING OF THE TRANSCRIPT WOULD INDICATE THAT TWO PLANTS, DAVIS-BESSE AND RANCHO SECO, WERE EXAMPLES OF INPO MEMBERS PLANTS WHERE PROBLEMS HAD BEEN IDENTIFIED, BUT WHERE LITTLE PROGRESS HAD BEEN MADE IN CORRECTING THE PROBLEMS UNTIL THE NRC STAFF STEPPED INTO THE PICTURE.

(A) IS INPO DOING THE JOB IT IS SUPPOSED TO BE DOING, THE JOB THE NRC IS EXPECTING IT TO DO?

ANSWER.

THE COMMISSION OPINION IS THAT INPO HAS MADE A CONTRIBUTION TO IMPROVED SAFETY AND RELIABILITY IN THE OPERATION OF THE NUCLEAR POWER PLANTS. INPO HAS, IN THE 5 YEARS OF ITS EXISTENCE, PURSUED SEVERAL IMPORTANT AREAS WARRANTING NUCLEAR POWER PLANT IMPROVEMENT AND HAS KEPT THE NRC INFORMED OF ITS PROGRESS. WE BELIEVE THAT THEIR EFFORT HAS BEEN WORTHWHILE AND GENERALLY IN ACCORDANCE WITH EXPECTATIONS.

AS MAY BE EXPECTED, IN AN INDUSTRY COMPRISED OF ABOUT 55 DIFFERENT UTILITIES OPERATING OVER 90 PLANTS, THERE ARE INSTANCES WHERE IDENTIFIED PROBLEMS TAKE LONGER TO RESOLVE THAN INITIALLY THOUGHT NECESSARY. HOWEVER, IT SHOULD BE NOTED THAT IN RECOGNIZING AND ENCOURAGING THE EFFORT OF INPO, THE NRC DOES NOT AND WILL NOT ABROGATE ITS AUTHORITY AND RESPONSIBILITY TO REGULATE IN ACCORDANCE WITH ALL APPLICABLE REGULATIONS AND TO CONDUCT INSPECTIONS NECESSARY TO DETERMINE THAT CURRENT REGULATIONS ARE MET.

QUESTION 49.

(B) IF NOT, WHRE DOES INPO FALL SHORT IN PERFORMING ITS STATED FUNCTION?

ANSWER

AS STATED IN (A) ABOVE, RECOGNIZING THAT LIKE IN EVERY INDUSTRY THERE WILL BE A FAIRLY WIDE RANGE OF PERFORMANCE FROM LICENSEES, THE COMMISSION'S OPINION IS THAT INPO IS GENERALLY MEETING THE OBJECTIVES OF PERFORMING ITS STATED FUNCTION.

(C) DO YOU FEEL THE FACT THAT INPO IS PURELY VOLUNTARY ON THE PART OF UTILITIES, WITH NO POWER TO ENFORCE COMPLIANCE WITH ITS RECOMMENDATIONS, HINDERS ITS EFFECTIVENESS? HOW CAN THAT, HOW SHOULD THAT BE CHANGED?

ANSWER

WE DO NOT BELIEVE THAT INPO'S EFFECTIVENESS IS SIGNIFICANTLY HINDERED BY VOLUNTARY MEMBERSHIP OF THE UTILITIES. ALL UTILITIES WITH NUCLEAR POWER PLANTS ARE PARTICIPATING MEMBERS OF INPO, AND ARE SUBJECT TO THE INSTITUTIONAL PROCESSES OF INPO. WITH RESPECT TO THE RESOLVE OF INPO TO ASSURE THAT INDIVIDUAL MEMBERS TAKE CORRECTIVE ACTION WHEN RECOMMENDED BY INPO, THE "INSTITUTIONAL PLAN FOR INPO" DESCRIBES THE GENERAL ACTIONS TO BE TAKEN.

A SPECIAL PROCEDURE, APPROVED BY THE INPO BOARD OF DIRECTORS, PROVIDES GUIDANCE IN THE EVENT THAT A MEMBER UTILITY IS NOT RESPONSIVE TO INPO PROGRAMS OR IS UNWILLING TO TAKE ACTION TO RESOLVE A SIGNIFICANT SAFETY ISSUE. THE PROCEDURE CALLS FOR INPO AND THE UTILITY MANAGEMENT TO WORK TO RESOLVE ANY ISSUES IN CONTENTION. SHOULD RESOLUTION NOT BE SATISFACTORY, THE PROCEDURE CALLS FOR SPECIFIC INTERACTION BETWEEN THE CHIEF EXECUTIVE OFFICER OF INPO AND THE CHIEF EXECUTIVE OFFICER OF THE UTILITY.

ULTIMATELY, THE PROCEDURE GIVES INPO THE AUTHORITY TO SUSPEND THE UTILITY FROM MEMBERSHIP IF THE UTILITY CONTINUES TO BE UNRESPONSIVE.

WE ARE OF THE VIEW THAT SUSPENSION FROM INPO WOULD CONSTITUTE A MAJOR BLEMISH ON THE RECORD OF A UTILITY. THUS, EVEN THOUGH INPO IS A VOLUNTARY ORGANIZATION, WE BELIEVE INPO HAS SUFFICIENT MECHANISMS TO OBTAIN CORRECTIVE ACTIONS. MOREOVER, THE STATUTORY RESPONSIBILITY AND AUTHORITY OF THE NRC, EXERCISED AS DESCRIBED IN RESPONSE NUMBER 49 A. ABOVE, WOULD ASSURE PROTECTION OF THE PUBLIC HEALTH AND SAFETY AND WE WOULD NOT HESITATE TO STEP IN AS WITH DAVIS-BESSE AND RANCHO SECO.

COMMISSIONER ASSELSTINE HAS THE FOLLOWING COMMENTS:

ONE OF THE MOST SIGNIFICANT SAFETY ISSUES FACING THE INDUSTRY AND THE NRC TODAY IS THE SIGNIFICANT DIFFERENCE IN PERFORMANCE AMONG DIFFERENT UTILITY LICENSEES. INDEED, THIS IS ONE OF THE PROBLEM AREAS THAT INPO WAS INTENDED TO ADDRESS. IT IS NOT CLEAR TO ME THAT AFTER SEVERAL YEARS OF OPERATION, INPO HAS BEEN EFFECTIVE IN CORRECTING THIS SERIOUS PROBLEM. THERE ARE STILL A NUMBER OF PLANTS WITH SUBSTANDARD PERFORMANCE, AND IT APPEARS THAT NRC HAS IDENTIFIED MORE PLANTS IN THIS CATEGORY THEN HAS INPO. IN SOME CASES, THIS SUBSTANDARD PERFORMANCE HAS CONTINUED LITERALLY FOR

YEARS. ONE PROBLEM AREA MAY BE THAT THE INPO MUST RELY ON PEER PRESSURE TO BRING ABOUT IMPROVEMENT BY THE PROBLEM PLANTS. ALTHOUGH EXPULSION FROM INPO IS A POTENTIALLY STRONG TOOL, INPO HAS NOT YET USED THIS MEASURE AGAINST ANY UTILITY. GIVEN THE LIMITS ON INPO'S AUTHORITY, AND THE SOMEWHAT MIXED RESULTS TO DATE IN IMPROVING THE SITUATION AT THE PROBLEM PLANTS, I DO NOT BELIEVE THAT THE COMMISSION CAN RELY ON INPO TO DEAL WITH THE PROBLEM OF SUBSTANDARD PERFORMANCE. THIS IS WHY THE COMMISSION'S DECISION TO REDUCE FUNDING FOR ADDITIONAL INSPECTIONS FOR PROBLEM PLANTS IN ITS FY 1986 BUDGET REQUEST IS SO REGRETTABLE.

COMMISSIONER ZECH HAS THE FOLLOWING COMMENTS:

IT IS MY UNDERSTANDING THAT INPO EMPLOYS A VARIETY OF MECHANISMS TO ENSURE UTILITIES PROPERLY ADDRESS THEIR RECOMMENDATIONS AND FINDINGS. THE FIRST STEP STARTS WITH THE PLANT EVALUATION. DURING THE EVALUATION, INPO VERIFIES THAT ALL PREVIOUS FINDINGS HAVE BEEN PROPERLY RESOLVED. ANY DEFICIENCIES THAT WERE NOT CORRECTED OR ONLY PARTIALLY CORRECTED ARE SINGLED OUT FROM THE OTHER FINDINGS AND PRESENTED TO THE CEO AT AN EVALUATION EXIT AS RECURRING OR REPEAT FINDINGS. THIS IDENTIFIES THE PROBLEM TO THE PROPER MANAGEMENT LEVEL. IF CORRECTIVE ACTION DOES NOT APPEAR TO BE TAKEN, INPO ARRANGES FOR A SPECIAL MEETING BETWEEN THE CHIEF EXECUTIVE OFFICER AND THE PRESIDENT OF INPO. IF NECESSARY, SELECTED CEO'S OF OTHER FACILITIES, AND EVEN THE INPO BOARD OF DIRECTORS, HAVE COMMITTED TO BRING THEIR INFLUENCE TO BEAR TO

ASSIST THE PRESIDENT OF INPO. NONRESPONSIVENESS CAN ULTIMATELY RESULT IN LOSS OF INPO MEMBERSHIP WITH THE POSSIBILITY OF MEDIA CRITICISM AND THE LOSS OF PUBLIC SUPPORT. IN SOME CASES, LOSS OF INPO MEMBERSHIP WOULD ALSO RESULT IN LOSS OF THE UTILITY'S INSURANCE COVERAGE. INPO TAKES ADDITIONAL ACTION FOR THOSE PLANTS WHERE FOLLOW THROUGH IS NECESSARY. IT IS MY UNDERSTANDING THAT, INSTEAD OF WAITING THE NORMAL 12 TO 15 MONTHS TO REVISIT THESE PLANTS, INPO SCHEDULES INTERMEDIATE VISITS TO CHECK THE PLANT'S PROGRESS. I AM INFORMED THAT SOME OF THESE VISITS HAVE OCCURRED AT THREE-MONTH INTERVALS. IF PROGRESS IS NOT NOTED, INPO CAN TAKE SOME OR ALL OF THE ACTIONS NOTED ABOVE.

INPO APPLIES ITS METHODOLOGY FOR RESOLVING FINDINGS REGARDLESS OF THE AREA OF THE FINDING (E.G., TRAINING, OPERATIONS, MAINTENANCE). CONSEQUENTLY, WHILE INPO DOES NOT HAVE THE AUTHORITY TO COMPEL COMPLIANCE, IT DOES HAVE CONSIDERABLE INFLUENCE. AS A MATTER OF FACT, I AM INFORMED THAT TO DATE INPO HAS NEVER HAD TO IMPLEMENT ITS PROGRESSIVE SCHEDULE BEYOND THE INPO PRESIDENT-CEO STAGE TO GET APPROPRIATE ACTION.

IN ANY EVENT, HOWEVER, REGARDLESS OF WHAT ACTION INPO MAY CHOOSE TO TAKE IN ANY PARTICULAR CASE, THE NRC CLOSELY MONITORS THE PROCESS AND THE RESULTS. WITHOUT QUESTION, THE NRC DOES HAVE THE AUTHORITY TO COMPEL ITS LICENSEES TO TAKE WHATEVER CORRECTIVE ACTION THE NRC DEEMS TO BE WARRANTED TO PROVIDE ADEQUATE PROTECTION TO THE PUBLIC HEALTH AND SAFETY. IF APPROPRIATE, I FEEL SURE THAT NRC WOULD EXERCISE THAT AUTHORITY. COMPELLING COMPLIANCE IS PROPERLY NRC'S ROLE. I BELIEVE INPO IS APPROPRIATELY EFFECTIVE EXERCISING ITS PRESENT ROLE.

QUESTION 50. THIS YEAR'S NRC LICENSING REFORM BILL REMOVES LANGUAGE FROM THE BILL THE NRC PROPOSED IN THE 98TH CONGRESS IN THE COMBINED CONSTRUCTION PERMIT AND OPERATING LICENSE SECTION THAT REQUIRED, PRIOR TO THE COMMENCEMENT OF OPERATION, THE COMMISSION TO CONDUCT A SUPPLEMENTAL REVIEW OF ANY ISSUES THAT WERE NOT CONSIDERED IN PRIOR REVIEW OF THE FACILITY. WHY DID THE COMMISSION REMOVE THAT PROVISION AND HOW WOULD THIS IMPROVE THE PRESENT LICENSING PROCESS?

ANSWER.

ADOPTION OF LANGUAGE IN THE STANDARDIZATION BILL REQUIRING THE SPECIFICATION OF INSPECTIONS, TESTS, ANALYSES AND ACCEPTANCE CRITERIA OBVIATES THE NECESSITY FOR HAVING LANGUAGE WHICH REQUIRES THE COMMISSION TO CONDUCT A SUPPLEMENTAL REVIEW OF ANY ISSUES THAT WERE NOT CONSIDERED IN PRIOR REVIEW OF THE FACILITY. THE SECTION-BY-SECTION ANALYSIS, WHICH ACCOMPANIED THE 1985 NRC LEGISLATIVE PROPOSAL CONTAINS AN EXTENSIVE DISCUSSION OF THE INSPECTIONS, TESTS, ANALYSIS AND ACCEPTANCE CRITERIA APPROACH AT PAGES 3, 4 AND 5. BRIEFLY, THE INSPECTIONS, TESTS AND ANALYSES APPROACH COMMITS THE COMMISSION TO AN ON-GOING PROGRAM OF REVIEWING SIGNIFICANT SAFETY ISSUES AS THOSE ISSUES RELATE TO PLANT DESIGN, IMPLEMENTATION OF THAT DESIGN DURING CONSTRUCTION AND READINESS FOR OPERATION. THIS PROCESS WOULD HAVE A NUMBER OF

CHECK POINTS DESIGNATED AT THE OUTSET AND USED AS REFERENCE POINTS DURING CONSTRUCTION THROUGH THE TIME OF PREOPERATIONAL TESTING AND CRITICALITY. IN THIS CIRCUMSTANCE, THERE WOULD APPEAR TO BE NO NEED FOR THE STATUTE TO REQUIRE A SPECIAL PREOPERATIONAL REVIEW. IT MAY BE NOTED, HOWEVER, THAT THE FIVE COMMISSIONERS WOULD NOT BE PRECLUDED, UNDER THE PROPOSED LEGISLATION, FROM ADOPTING ADMINISTRATIVE PROCEDURES BY WHICH THEY COULD CONDUCT SUCH A REVIEW SHOULD THEY BELIEVE IT NECESSARY AND APPROPRIATE. HOW THE PROCESS WOULD BE IMPROVED IS DISCUSSED MORE FULLY IN RESPONSE TO QUESTION 52.

COMMISSIONER ASSELSTINE'S RESPONSE:

REMOVING THE REQUIREMENT THAT THE COMMISSION CONDUCT A PREOPERATIONAL REVIEW OF ISSUES THAT WERE NOT CONSIDERED IN PRIOR REVIEWS WOULD WEAKEN, RATHER THAN IMPROVE, THE REGULATORY PROCESS. WHILE THERE ARE CLEAR BENEFITS TO BEGINNING WITH AN ESSENTIALLY COMPLETE PLANT DESIGN AND A FULLY ELABORATED QUALITY ASSURANCE PROGRAM, A VERY LARGE AND COMPLEX PROJECT SUCH AS THE CONSTRUCTION OF A NUCLEAR POWER PLANT NECESSARILY INVOLVES UNFORESEEN, AND UNPREDICTABLE, CONTINGENCIES. IT IS THEREFORE DESIRABLE TO HAVE A FORMAL, PREOPERATIONAL REVIEW OF THE PLANT'S CONSTRUCTION AND READINESS FOR OPERATION TO ENSURE THAT THE LOOSE ENDS HAVE BEEN TIED UP PROPERLY. REQUIRING SUCH A REVIEW, RATHER THAN LEAVING IT TO THE COMMISSION'S DISCRETION, WOULD RESULT IN A MORE DISCIPLINED LICENSING PROCESS AND COUNTERACT A NATURAL TENDENCY TO AVOID DIFFICULT QUESTIONS AT THAT LATE STAGE IN A PROJECT.

QUESTION 51. ANOTHER SIGNIFICANT DIFFERENCE BETWEEN THIS YEAR'S NRC LICENSING REFORM PROPOSAL AND THE NRC'S BILL FROM THE 98TH CONGRESS IS THE REMOVAL OF THE REQUIREMENT FOR THE COMMISSION TO PROVIDE AN OPPORTUNITY FOR A HEARING BEFORE APPROVING AN AMENDMENT TO AN APPROVED DESIGN MADE BY THE HOLDER OF THE DESIGN APPROVAL. WHY DID THE COMMISSION REMOVE THAT PROVISION AND HOW WOULD THIS IMPROVE THE PRESENT LICENSING PROCESS?

ANSWER.

THE REFERENCE TO PROVIDING AN OPPORTUNITY FOR A HEARING BEFORE APPROVING AN AMENDMENT TO AN APPROVED DESIGN MADE BY THE HOLDER OF THE DESIGN APPROVAL WAS REMOVED BECAUSE IT APPEARED TO BE REDUNDANT. WHATEVER HEARING RIGHTS EXIST UNDER THE ATOMIC ENERGY ACT ARE CLEARLY PRESCRIBED BY SECTION 189. CROSS-REFERENCING 189 IN SECTION 194 DOES NOT GIVE THAT SECTION ANY MORE FORCE AND EFFECT. WHETHER THE CROSS-REFERENCE LANGUAGE IS EXCLUDED HAS LITTLE EFFECT ON THE LICENSING PROCESS BUT IT MAKES THE LEGISLATIVE MORE CONCISE.

QUESTION 52. WHY DID THE COMMISSION INCLUDE LANGUAGE IN THIS YEAR'S LICENSING REFORM PROPOSAL THAT PROVIDES, IN ISSUING A CONSTRUCTION/OPERATING LICENSE, THE COMMISSION, "SHALL IDENTIFY WITHIN SUCH COMBINED CONSTRUCTION PERMIT AND OPERATING LICENSE THE INSPECTIONS, TESTS, AND ANALYSES WHICH SHALL BE PERFORMED AND THE ACCEPTANCE CRITERIA THEREFORE WHICH WILL PROVIDE REASONABLE ASSURANCE THAT THE PLANT HAS BEEN CONSTRUCTED AND WILL OPERATE IN ACCORDANCE WITH THE LICENSE? HOW WOULD THIS PROVISION IMPROVE THE PRESENT LICENSING PROCESS?

ANSWER.

A NUMBER OF BENEFITS ARE DERIVED FROM INCLUDING IN THIS YEAR'S LICENSING REFORM PROPOSAL A PROVISION THAT THE COMMISSION "SHALL IDENTIFY WITHIN THE INSPECTIONS, TESTS, AND ANALYSES WHICH SHALL BE PERFORMED AND THE ACCEPTANCE CRITERIA THEREFORE WHICH WILL PROVIDE REASONABLE ASSURANCE THAT THE PLANT HAS BEEN CONSTRUCTED AND WILL OPERATE IN ACCORDANCE WITH THE LICENSE". THE RATIONALE FOR THIS APPROACH IS STATED AT PAGES 3, 4 AND 5 OF THE SECTION-BY-SECTION ANALYSIS ACCOMPANYING THE NEW LEGISLATIVE PROPOSAL. THE BENEFITS ARE BEST UNDERSTOOD WHEN COMPARED TO CURRENT COMMISSION PRACTICE. CURRENTLY, AT THE CONSTRUCTION PERMIT STATE 15 TO 25 PERCENT OF THE DESIGN IS COMPLETED AND ALTHOUGH GENERAL ARCHITECTURAL AND ENGINEERING PRINCIPLES ARE ESTABLISHED, THE

INSPECTIONS, TESTS, ANALYSES AND ACCEPTANCE CRITERIA ARE NOT SPELLED OUT. CONSEQUENTLY DESIGN, CONSTRUCTION AND REGULATORY REQUIREMENTS ARE HIGHLY UNCERTAIN EARLY IN THE PROCESS AND THE INTERACTION OF THEIR MUTUAL LATE DEVELOPMENT TENDS TO EXACERBATE UNCERTAINTY DURING CONSTRUCTION. THERE ARE AT LEAST SIX MAJOR BENEFITS OF THE NEW LEGISLATION OVER THE CURRENT PRACTICE.

1. DESIGNATION OF INSPECTIONS, TESTS, ANALYSES AND ACCEPTANCE CRITERIA PROVIDES A YARD STICK AGAINST WHICH THE ESSENTIALLY COMPLETE DESIGN MUST BE MEASURED IN ORDER TO BE ACCEPTABLE FOR REGULATORY REVIEW.

2. THERE IS AN EARLY IDENTIFICATION OF DEFINED REGULATORY REQUIREMENTS.

3. THIS PROCESS SHOULD PROVIDE ALL OF THE BASIC INFORMATION NECESSARY FOR THE PUBLIC TO PARTICIPATE IN A INCREMENTAL DEVELOPMENT OF INFORMATION CONCERNING DESIGN, CONSTRUCTION AND APPLICATION OF REGULATORY REQUIREMENTS BEFORE IT CAN PARTICIPATE.

4. A CHECK LIST WILL ENHANCE THE ABILITY OF THE COMMISSION TO ASSURE QUALITY OF CONSTRUCTION AND THAT THE DESIGN MATCHES CONSTRUCTION.

5. THERE IS AN ENHANCEMENT OF REGULATORY CERTAINTY BY PRESCRIBING AT THE OUTSET WHAT IS EXPECTED OF A PROSPECTIVE LICENSEE.

6. THE OVERALL QUALITY OF FACILITY SHOULD BE IMPROVED BY REQUIRING BOTH THE REGULATOR AND THE PROSPECTIVE LICENSEE TO FOCUS EARLY ON IMPORTANT MATTERS AND ESTABLISH PLANS TO ASSURE THAT REQUIREMENTS ARE IDENTIFIED, IMPLEMENTED AND APPROVED IN A TIMELY MANNER.

COMMISSIONER ASSELSTINE'S RESPONSE:

I'M AFRAID THAT THE COMMISSION'S RESPONSE IS SOMEWHAT DISINGENUOUS. SECTION 189 OF THE ATOMIC ENERGY ACT DESCRIBES THE HEARING RIGHTS WHICH ATTACH TO THE ISSUANCE OF LICENSES AND CONSTRUCTION PERMITS. IT DOES NOT PRESCRIBE WHAT, IF ANY, HEARING RIGHTS WOULD ATTACH TO THE ISSUANCE OR AMENDMENT OF THE "DESIGN APPROVAL" CONTEMPLATED BY SECTION 194 OF THE BILL PROPOSED BY THE COMMISSION. THE CURRENT LANGUAGE OF SECTIONS 189 AND 194 COULD BE READ AS PRECLUDING ANY HEARING ON AMENDMENTS TO DESIGN APPROVALS AND AS PERMITTING LEGISLATIVE, RATHER THAN ADJUDICATORY, HEARINGS ON THE DESIGN APPROVALS THEMSELVES.

QUESTION 53. THE COMMISSION IS AWARE OF THE PRESENT GRAND JURIES WHICH INCLUDE IN THE SCOPE OF THEIR PROCEEDINGS NRC LICENSING OR REGULATORY ACTIVITIES. PLEASE DISCUSS WHETHER OR NOT THE PRESENT LEVEL OF GRAND JURY ACTIVITY INDICATES ANY FAILURE ON THE PART OF THE COMMISSION, OR ITS STAFF, TO PERFORM ITS RESPONSIBILITIES. (GIVEN THE SENSITIVE NATURE OF SOME OF THE GRAND JURY PROCEEDINGS, IT IS NOT NECESSARY FOR THE COMMISSION IN ITS RESPONSE TO MAKE REFERENCES TO ANY SPECIFIC PROCEEDING).

ANSWER.

THE GRAND JURIES ARE A RESULT OF POTENTIALLY CRIMINAL MATTERS BEING DETECTED BY THE NRC AND FORMALLY REFERRED TO THE DEPARTMENT OF JUSTICE IN ACCORDANCE WITH COMMISSION POLICIES AND PROCEDURES. THE COMMISSION FEELS THAT THIS PRESENT LEVEL OF GRAND JURY ACTIVITY REFLECTS FAVORABLY ON THE VIGOR OF NRC'S REGULATORY PROGRAM AND MOST CERTAINLY DOES NOT REPRESENT A FAILURE ON THE PART OF THE COMMISSION OR ITS STAFF TO PERFORM ITS RESPONSIBILITIES. THE POTENTIAL CRIMINALITY BEING EXAMINED BY THESE GRAND JURIES REPRESENTS ALLEGED DELIBERATE VIOLATIONS OF NRC AND/OR OTHER FEDERAL REQUIREMENTS. WE HAVE NO REASON TO BELIEVE THAT THIS IS WIDESPREAD THROUGHOUT THE INDUSTRY THAT WE

REGULATE. INDEED, THE NRC TAKES ABOUT 2000 ENFORCEMENT ACTIONS A YEAR. OF THESE, ABOUT A DOZEN A YEAR HAVE BEEN REFERRED TO DOJ, AND ONLY A FEW OF THOSE ARE PRESENTED TO A GRAND JURY. GIVEN THE FOREGOING, IT WOULD NOT BE REASONABLE TO CONSIDER THE PUTATIVE CRIMINAL ACTIONS OF AN EXTREMELY SMALL PORTION OF A LARGE INDUSTRY TO REFLECT ADVERSELY ON EITHER THE ENTIRE INDUSTRY OR THE NRC.

QUESTION 54. IN LIGHT OF THE NUMBER OF SEPARATE GRAND JURY PROCEEDINGS INVOLVING NRC ACTIVITIES, WHAT CHANGES IN THE PRESENT COMMISSION STRUCTURE, OR THE PROPOSED FY86 BUDGET WOULD THE COMMISSION SUPPORT?

ANSWER.

FROM DISCUSSIONS WITH YOUR STAFF, WE UNDERSTAND THE INTENT OF THIS QUESTION TO BE WHETHER THE COMMISSION BELIEVES THERE IS A NEED FOR A STATUTORY INSPECTOR GENERAL WITHIN NRC.

IT IS NOT EVIDENT THAT THE NUMBER OF SEPARATE GRAND JURY PROCEEDINGS INVOLVING NRC ACTIVITIES WOULD NECESSITATE CHANGES IN THE PRESENT COMMISSION STRUCTURE SUCH AS THE ESTABLISHMENT OF A STATUTORY INSPECTOR GENERAL. WITHIN NRC THERE ALREADY EXISTS AN OFFICE OF INSPECTOR AND AUDITOR (OIA) WHICH CARRIES OUT THE FUNCTIONS OF AN INSPECTOR GENERAL. OIA IS INDEPENDENT OF THE REST OF NRC IN THAT THE DIRECTOR, OIA, REPORTS DIRECTLY TO THE COMMISSION. THE DIRECTOR, OIA HAS THE FREEDOM TO INITIATE INVESTIGATIONS OF ANY NRC ACTIVITIES WITHOUT COMMISSION INTERFERENCE.

IN SEPTEMBER 1984 THE COMMISSION HIRED A NEW DIRECTOR OF OIA, WHO HAS THE FULL CONFIDENCE OF THE COMMISSION TO CARRY OUT OIA'S INVESTIGATIVE AND AUDIT PROGRAMS. THE DIRECTOR, OIA, HAS ASSURED THE COMMISSION THERE IS NO INTIMIDATION OR RELUCTANCE WITHIN OIA TO CARRY OUT INVESTIGATIONS OF NRC ACTIVITIES.

QUESTION 54. - 2 -

COMMISSIONER ASSELSTINE HAS THE FOLLOWING VIEW:

I BELIEVE THAT THE ESTABLISHMENT OF AN INDEPENDENT, STATUTORY INSPECTOR GENERAL FOR THE NRC IS NEEDED. THE EXISTENCE OF A GRAND JURY PROCEEDING EXAMINING POSSIBLE CRIMINAL WRONGDOING BY SENIOR NRC STAFF OFFICIALS ITSELF MAY BE A JUSTIFICATION FOR A STATUTORY INSPECTOR GENERAL, SINCE THE NEED FOR A GRAND JURY MAY INDICATED A FAILURE OF NRC'S INTERNAL POLICING SYSTEM. A STATUTORY INSPECTOR GENERAL WOULD PROVIDE A STRONGER, MORE INDEPENDENT INTERNAL WATCHDOG ON NRC STAFF CONDUCT AND PERFORMANCE THAN THE PRESENT AGENCY STRUCTURE. MOREOVER, I HAVE BEEN ADVISED THAT THERE WERE INSTANCES IN THE PAST IN WHICH THE NRC STAFF ATTEMPTED TO INFLUENCE OUR OFFICE OF INSPECTOR AND AUDITOR REGARDING THE SCOPE OF OIA'S INVESTIGATIONS OF THE STAFF THROUGH THE USE OF DIRECT THREATS AND INTIMIDATION. WITH REGARD TO THE CURRENT OPERATION OF OUR OFFICE OF INSPECTOR AND AUDITOR, I DO NOT SEE THE TYPES OF OVERT ATTEMPTS TO INTIMIDATE OR INFLUENCE THE WORK OF THAT OFFICE WHICH MAY HAVE OCCURRED IN THE PAST. HOWEVER, I SEE A MORE SUBTLE INFLUENCE BY THE NRC STAFF WHICH MAY ALSO HAVE THE EFFECT OF DETERRING OIA FROM AGGRESSIVELY PURSUING SIGNIFICANT QUESTIONS CONCERNING THE NRC STAFF'S PERFORMANCE, PARTICULARLY IN THE CASES OF GREATEST SENSITIVITY. THIS MORE SUBTLE INFLUENCE IS APPARENT IN SOME RECENT REPORTS BY OIA IN WHICH THAT OFFICE HAS FAILED TO EVALUATE OBVIOUS CONFLICTS IN STATEMENTS BY WITNESSES AND HAS FAILED TO MAKE RECOMMENDATIONS ON THE MORE SIGNIFICANT ISSUES INVOLVED IN THE BREAKDOWN OF AN NRC PROGRAM. THE INDEPENDENCE OF A STATUTORY INSPECTOR GENERAL WOULD HELP OVERCOME OIA'S APPARENT RELUCTANCE TO TACKLE SOME OF THE MORE SIGNIFICANT AND DIFFICULT ISSUES INVOLVED WITH THE NRC STAFF'S CONDUCT AND PERFORMANCE.

GCRA
GAS-COOLED REACTOR ASSOCIATES
10240 Sorrento Valley Rd. Ste. 300
San Diego, CA 92121-1605
(619) 455-9500

March 8, 1985

The Honorable Alan K. Simpson, Chairman
Committee on Environment and Public Works
Subcommittee on Nuclear Regulation
SH-709 Hart Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

As Chairman of the Gas-Cooled Reactor Associates (GCRA) and President of Public Service Company of Colorado, I would like to submit for consideration for inclusion in the record of the Subcommittee on Nuclear Regulation the enclosed statement in support of the FY 1986 HTGR Program NRC budget. This statement provides a review of the current status of the HTGR Program and discusses a proposed workscope and budget for the coming fiscal year. I feel it is important, in view of the difficult budgetary environment, to reiterate the utility industry's strong commitment to this important energy option.

If I can be of any assistance to you or your staff in planning for the upcoming Hearings, please contact me or Dan Mears, General Manager of GCRA.

Sincerely yours,

R. F. Walker

R.F. Walker, Chairman
Gas-Cooled Reactor Associates
President, Public Service
Company of Colorado

cc: James R. Curtiss

STATEMENT SUBMITTED FOR THE RECORD
SUBCOMMITTEE ON NUCLEAR REGULATION
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

FY 1986 NRC AUTHORIZATION
HIGH TEMPERATURE GAS-COOLED REACTOR PROGRAM

RICHARD F. WALKER
PRESIDENT OF PUBLIC SERVICE COMPANY OF COLORADO
AND
CHAIRMAN OF GAS-COOLED REACTOR ASSOCIATES

Mr. Chairman and Members of the Subcommittee, my name is Richard F. Walker, and I am President of Public Service Company of Colorado and Chairman of Gas-Cooled Reactor Associates (GCRA) which is a utility/user organization that supports the development of the High Temperature Gas-Cooled Reactor (HTGR). At present, the GCRA constituency represents approximately one-third of the installed generation capacity in the U.S. In addition, participating GCRA utilities have a substantial investment in and extensive experience with nuclear power. This background of nuclear experience provides GCRA with a sound base for evaluating the HTGR as a commercial alternative. GCRA's role is to apply this base of experience in guiding the development of the HTGR to be fully responsive to utility/user requirements. A GCRA staff, supported solely by utility funds, has been in place since 1978 conducting HTGR concept evaluations, Project planning and development activities, and Program integration support services to DOE, including the management of architect-engineer (AE) resources.

The bases for utility/user interest in the HTGR are the unique characteristics that distinguish it from the current generation of nuclear power systems. The most notable of these features are the inherent safety and low environmental impact characteristics that translate to minimal reliance on engineered safety systems, substantial time (measured in hours) for operator response to postulated reactor upset conditions, added margins for plant investment protection and siting flexibility, and low radiation exposure of plant personnel. Furthermore, the HTGR is an evolutionary technology that extends beyond near-term power and cogeneration applications to advanced concepts for power generation and process heat.

GCRA's objective is to establish the HTGR as an attractive commercial alternative for a broad range of applications in a timely manner. The approach to achieving this objective has been to establish an initial HTGR Project after which commercial plants can be deployed. In achieving this objective, the maximum use will be made of the past 35 years of worldwide gas-cooled reactor technology, demonstration and application. In the near-term, the objective is to develop an HTGR design that is responsive to the utility/user's requirements, eases the current institutional difficulties associated with nuclear power and optimally capitalizes on the HTGR's unique characteristics.

During the past year, a comprehensive evaluation has been undertaken within the HTGR Program of various smaller, simpler HTGR design concepts. Through this effort, a consensus has been reached among the private-sector participants on the key elements of the HTGR Program. In particular, the preferred concept for near-term development and deployment emphasis is the steel vessel, modular design. Resources for the near-term, including the balance of 1985, should be focused on pursuing this concept to establish whether there is a sufficient basis for Project commitment. Key distinguishing features of the modular HTGR include:

1. The core size and power density are limited such that the fuel particle coatings retain the fission products to an acceptable degree under all licensing basis events, with decay heat removal being accomodated by the passive mechanisms of radiation and conduction. This feature is expected to simplify the overall concept, particularly the licensing and operations activities.
2. The nuclear steam supply system and other systems within the nuclear island are shop fabricated and assembled to nuclear standards, while the balance of plant is largely manufactured and constructed to conventional fossil plant standards. This is expected to improve the productivity and reduce the schedule and field erection costs.
3. The plant is composed of independent reactor units of approximately 250 MWt/100 MWe that can be constructed as a cluster of modules or sequentially constructed to more closely match load growth requirements and the utility's financing constraints.

The preferred strategy for deploying the modular HTGR is through a Licensing and Technology Test Project that would be used to implement the "license by test" concept as well as to demonstrate the performance, cost and schedule features of the modular HTGR. Further, international cooperation, particularly with the Federal Republic of Germany, should be expanded to the maximum degree in order to reduce the overall costs and risks to the U.S.

A major ongoing effort within GCRA has been to coordinate the private-sector efforts in support of such a Project initiative. To this end, exploratory activities are underway to establish a consolidated vendor/supplier/AE entity that can efficiently design and build the Licensing and Technology Test Project. The intent is that upon successful completion, multiple vendor entities would be able to offer commercial modular HTGR plants. In addition, efforts are continuing to establish the detailed utility/user requirements of such a Project, candidate sites, host or supporting utility arrangements, as well as arrangements for broad utility support for the Project.

With regard to the HTGR Program at the NRC, we are pleased to note that during the past year, activities have begun in earnest to establish an HTGR Licensing Plan and interactions with the Advanced Reactors Group within the NRC. It is our approach, as documented in the Licensing Plan, to get agreement with the NRC during 1985 on overall licensing criteria, licensing basis events, and scope of safety-related structures, systems and components which appropriately reflect the unique characteristics of the modular HTGR concept. With this as a foundation, activities in 1986 will concentrate on specific issues pertinent to how well the design and technology program satisfy the criteria base. Finally, in 1987 we are requesting that the NRC review the design and safety assessments provided in a Preliminary Safety Information Document (PSID), to be developed in 1986, and issue a licensability statement. The primary function of this licensability statement would be to determine at an early stage whether the NRC finds any feature of the design or proposed technology program to be unacceptable. We would like to commend the Advanced Reactors Group for their responsiveness in reviewing the material provided.

However, the future of the Advanced Reactor Programs at the NRC is presently uncertain and we urge careful attention and support by this Subcommittee to remedy this situation. First of all, we urge that the NRC issue an Advanced Reactor Policy Statement that will provide a stable policy and budget framework within the NRC and the Advanced Reactor Group within NRR in particular. A draft statement has been in review within the NRC for over a year.

Regarding the HTGR safety activities at the NRC in FY 1986, the programs should focus on the steel vessel, modular HTGR concept while maintaining a cadre of generic technical expertise on HTGRs appropriate for the continued operation of the Fort St. Vrain plant. Specifically, we are asking for a commitment of NRC resources as well as funding of outside staff support for the activities described below:

Modular HTGR Concept Licensing:

> Efforts should center on activities identified in the HTGR Licensing Plan. The activities planned include development of criteria, selection of licensing bases events, and concept design review. Technical issues arising as a result of uncertainties relating to top-level regulatory criteria compliance will be identified and necessary research activities planned. The completion of a broad risk assessment of this concept might be useful in identifying and prioritizing such issues.

Generic HTGR Research:

> Research applicable to FSV should be continued so that NRC retains the ability to resolve issues as they may arise so as to minimize any unnecessary outage time. Generic research on graphite and fuel, for example, would be potentially useful for all HTGR concepts.

We recommend that these efforts be focused specifically on the HTGR and be funded at a level of aproximately $2 million in FY 1986.

On the local front, I would like to update you on the Fort St. Vrain power plant. Last year, I reported to you about the improving performance of the plant, but unfortunately, this trend did not continue through 1984. On January 20, 1984 the plant underwent a planned shutdown for its third refueling along with an extensive refurbishment and maintenance program that lasted until the second week in June. Shortly after the plant was restarted, a plant upset occurred which resulted in a significant ingress of water into the primary coolant system via the helium circulators' bearing seals. In the subsequent safe shutdown, it was observed that six pairs of control rods failed to drop into the reactor. While this event in itself posed no safety hazard, the subsequent investigation revealed that excess moisture in the primary helium system had caused a corrosion problem in the control rod drives. During the past months, we have made the appropriate improvements at the plant and we are currently refurbishing the control rod drives. We hope to be able to restart the plant before long.

In spite of such first-of-a-kind difficulties, it should be recognized that Fort St. Vrain has provided critical confirmation and demonstration of many inherent HTGR features. For example, the amount of radioactivity carried in the helium coolant has been less than two percent of the design limit, demonstrating the structural integrity of the coated fuel particles. Personnel exposure data for the U.S. indicate that Fort St. Vrain has had an average annual person-rem exposure rate per GW(e)-year approximately a hundred times lower than the rate in light water reactor plants. This low personnel exposure level is probably the lowest of any commercial nuclear plant in the world and is even more significant in view of the fact that Fort St. Vrain allows virtually unlimited access into the reactor building for all operations and maintenance personnel.

As another example, temperature transients have been slow and predictable, even during periods of temporary loss of forced cooling, demonstrating the large heat capacity of the core. Operation to date has achieved 1000°F steam temperatures and a net efficiency of 38.5%--the highest of any nuclear plant in the U.S.

As part of a continuing commitment to improve the performance of Fort St. Vrain, Public Service Company of Colorado plans to spend about $16 million in 1985. Furthermore, lessons-learned are being incorporated by the Program in subsequent HTGR designs. For example, a new helium circulator design, possibly using an electric motor drive and magnetic bearings that do not require water, is being investigated for possible application in the modular HTGR and might even be able to replace the existing circulators in Fort St. Vrain. We are confident that Fort St. Vrain will become a reliable source of kilowatt-hours for our customers as well as continue to provide critical information regarding the demonstration of HTGR systems and components. My Company is proud of our role as owner/operator of Fort St. Vrain and we remain committed to the HTGR concept.

Mr. Chairman, I appreciate the opportunity to present the utility/user support and perspective on the HTGR Program to your Subcommittee. With your continued support, we will bring to fruition an HTGR Program that is responsive to utility/user needs and the nation as a whole.

[Whereupon, at 12:02 p.m., the committee recessed, to reconvene subject to the call of the Chair.]

FISCAL YEAR 1986 BUDGET REVIEW

FRIDAY, MARCH 8, 1985

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 10:08 a.m., in room SD-406, Dirksen Senate Office Building, Hon. Robert T. Stafford (chairman of the committee) presiding.

Present: Senators Stafford, Chafee, Abdnor, Bentsen, and Burdick.

CORPS OF ENGINEERS

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator **STAFFORD**. Good morning. The committee will please come to order.

I am pleased to open this important hearing, which gives us an opportunity to discuss the fiscal year 1986 budget covering the Civil Works Program of the Army Corps of Engineers. This hearing is particularly noteworthy because the President recently sent to the Congress a new omnibus water resources proposal as well as an inland waterways proposal.

I was pleased to introduce the omnibus bill as S. 534. I intend to introduce the second bill shortly.

As part of the program for fiscal year 1986, the administration has included 29 new project starts. I applaud that decision, but as we discuss these issues and the budget, we must focus on the fact that the 1986 Corps of Engineers spending program is basically unchanged from 1985.

That statement masks the fact that the actual appropriations request is $470 million below the spending level. That differential is to be covered by offsetting cost-sharing arrangements including new navigation use charges.

If Congress fails to adopt those new cost-sharing arrangements, we will either be forced to reduce Corps spending by $470 million or face the fact that we have, in effect, increased the deficit by that amount.

I am pleased to see that Maj. Gen. John Wall, Director of Civil Works, is one of our witnesses. I was interested to read a recent statement you made, General, when you said,

> The administration has adopted a strategy of stretching limited Federal dollars over a large number of projects than possible with traditional financing by capitaliz-

ing on the ability of project beneficiaries to assemble financing packages that will enable them to deal with a larger share of project costs.

This is a challenge, but that statement also reflects the realities which I think we face.

I am very pleased for the committee to welcome you here, General, and to welcome the Assistant Secretary of the Army for Civil Works, Secretary Dawson. I am particularly pleased that our timing is excellent here in the committee, because the chairman of the subcommittee involved walked in while I was making my statement. He is really the man in charge and has done tremendous work on water projects in the years he has been on the committee.

Jim, if you have a statement, this is a good time to make it.

OPENING STATEMENT OF HON. JAMES ABDNOR, U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator Abdnor. Thank you, Mr. Chairman. I will be brief.

I want to welcome our witnesses to the meeting, and I want to say that I am pleased to have Secretary Dawson before us. I think that the water resource community and the Corps of Engineers have an able and intense supporter of water resource development at the helm of the Corps program, and they should appreciate the fine job which Bob has done as the Acting Assistant Secretary of the Army for Civil Works.

Having indicated to this audience my great respect and support for Mr. Dawson on behalf of responsible water development, I have to add that I can see the hand of the administration's wizard of subtraction, Mr. Stockman, in the budget you have brought us here today. I do not appreciate the message I see in this budget, and I hope that you can provide this committee with an explanation of what I can only describe as creative bookkeeping.

I think that this is a kind way to explain a budget request of $2.3 billion appropriations to carry out an anticipated program of $2.9 billion, with the difference to be covered by users fees. Now, without going into the details of those user fee proposals, I think we will have to have you up here again sometime to really do that, and I take it you have taken into account the prospect that these user fee proposals will not be enacted in whole or in part for fiscal year 1986 and have resigned yourself to living with only $2.3 billion in appropriations if you have to do that, and that is exactly what will happen if the Finance Committee decides not to take up the subject of the users fees.

Mr. Secretary, that would mean that $187 million in programmed port maintenance and $168 million in programmed inland maintenance would be left unfunded, or reductions of a similar size would have to be found in other areas of the Corps budget to make up the difference.

Mr. Chairman and Mr. Secretary, this places the committee in a very, very difficult position. I do not quarrel with the level of the program which is anticipated for fiscal year 1986. I understand it is $9 million over a fiscal year 1985 freeze level. But what are we to do about the budget request level? More to the point today, I want to know what the administration intends to do if it gets no user fees or only half a loaf of fees.

Mr. Chairman, we need to know if ports are going to be undredged, if segments of the waterways are going to be closed, or operations shortened on some waterways. I have a very blunt question for the Secretary: What does this budget gimmickry mean? What is the intention of the administration on this thorny problem of unfunding maintenance?

I put it bluntly because no one in this room has spent more time working to reach a consensus on navigation finance reforms in this Congress than I have, and this committee, and I believe that the administration's efforts to impose navigation cost-sharing and users fees is not served by the implication that if we in Congress do not go along, the ports and waterways will be left to silt up. I hope that you can enlighten us on this point, Mr. Secretary, and I look forward to hearing from you in the future when we address the omnibus water legislation more thoroughly.

With that, I guess I have stated the way I see it. What happens if we don't get the users fees? So we let this portion of the water system go and not dredge? Maybe you have some thoughts on it if you want to think about that and tell us at a later date, but it is a problem. It can't just be dumped in my lap here or the chairman's lap. There are a lot of other people who have to play a part in this. I think we ought to have some backup or something in the event it doesn't work out as nicely as Mr. Stockman would like to have it work out. What do we do? Maybe you can give us some answers on this.

Senator STAFFORD. Thank you very much, Senator. As you can see, Mr. Secretary, both of us seem to be preoccupied with what happens if the user fees don't, in fact, in whole or in part get adopted, because it will be a major problem for us and for you.

Why don't you go ahead, Mr. Secretary, if you have a statement. We would be pleased to hear it, and if your colleagues have any statements, this would be an appropriate time for them. Then, we will have a few questions.

STATEMENT OF HON. ROBERT K. DAWSON, ACTING ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS), ACCOMPANIED BY MAJ. GEN. JOHN F. WALL, DIRECTOR OF CIVIL WORKS, U.S. ARMY CORPS OF ENGINEERS; DR. G. EDWARD DICKEY, OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS); AND DR. BORY STEINBERG, CHIEF OF PROGRAMS DIVISION, DIRECTORATE OF CIVIL WORKS, U.S. ARMY CORPS OF ENGINEERS

Secretary DAWSON. Thank you very much, Mr. Chairman and Chairman Abdnor. I am the only witness with a prepared statement, and I will summarize it in an effort to get to the few questions you have already raised and the other questions you no doubt have.

It is a real pleasure to appear before you today to discuss the Army's Civil Works Program and the fiscal year 1986 budget recommendation. As you mentioned, the Director of Civil Works, Major General John F. Wall, is with me as well as the Chief of Programs, Dr. Bory Steinberg, on my right. On my left is Dr. G.

Edward Dickey, my Deputy for Program Planning. They will assist in the testimony today.

With your permission, Mr. Chairman, I will summarize my statement and ask that my full statement be made a part of the record. We will then be available to answer the committee's questions.

President Reagan has stated, Mr. Chairman, that "Providing enough high quality water promptly to those who need it is a task that has confronted Americans since the earliest days of our national experience." We know that this committee continues its commitment to working with the States, local entities, and those private sector interests concerned with water development all across America on this never-ending challenge. It is in the spirit of working with you to rebuild the Federal-State partnership so that we can resume water development efforts to avert water crises in the coming decades that we are here today.

The Department of the Army has worked hard during the past 4 years to develop a new means to move forward with the Civil Works Program. For over a decade, this program has been in a state of retrenchment as the traditional terms for authorizing and implementing projects apparently lost favor with the American people and thus with the Congress. In spite of our efforts to date, we have been unsuccessful in obtaining a new charter for water resources development and management, but I believe that there have ben lessons learned on all sides.

The Department's proposed fiscal year 1986 program, out of necessity, is premised on the enactment of new legislation, and I am hopeful that there will be the will and the wisdom to get the job done. I might say, Mr. Chairman, to you and to Chairman Abdnor as well, that the reason we are here today believing that we have a genuine chance of resolving this problem is attributable, in my judgment, to the tough, courageous choices that you and the committee made in the last Congress.

Summarizing briefly our fiscal year 1986 budget presentation, our request for civil works totals $2.338 billion. Based on proposed legislation and/or voluntary agreements with local sponsors of new construction projects, we anticipate cash contributions from non-Federal project sponsors of new construction projects and receipts from navigation user fees, as you both mentioned in your opening statements, of $470 million. The requested Federal appropriation, when enhanced by new non-Federal payments, would provide the Corps of Engineers with total new program funding of $2.808 billion. This amount is adequate to meet all scheduled programs requirements and demonstrates that, in the area of water resources development, it is possible to maintain our level of activity in spite of the necessity to reduce Federal spending.

To touch very briefly, Mr. Chairman, on the subject of construction of new projects, we continue to strive to reestablish a strong development program with cooperating States and local sponsors. Construction of 29 new projects in the fiscal year 1986 budget includes 6 which require construction authorization by this committee. Thirteen of these projects have been included in previous budgets but were not acted on by the Congress. Fifteen are additional new construction projects based on newly negotiated financing arrangements.

We believe these projects demonstrate further the willingness and ability of local sponsors to increase their financial participation in new project development when a strong, productive project exists, a project sure to provide a return on their financial investment. For example, one of our new starts is a flood control project at Chaska, MN, which was a cost of some $28 million and has a benefit cost ratio of 1.2 to 1. For contributing 35 percent of the cost, the city of Chaska gets a return of $1.20 for every 35 cents of investment, a very good return and a very good deal so long as the benefits are real.

With Congress' approval, we can move out this year to get these benefits flowing. This project and 22 others are already authorized. The only remaining hurdle is a green light from the Congress.

Also included as a new project is one inland navigation project, Gallipolis Locks and Dam on the Ohio River, which reflects the willingness of the Department of the Army to undertake navigation investments conditioned on a substantial financing contribution from the waterway beneficiaries.

The 29 new projects represent a capital investment of slightly under $1.6 billion. Under the cost sharing arrangements we have negotiated with sponsors and inland navigation user fees, non-Federal funds would be used to finance almost $900 million, or about 57 percent of total implementation costs.

Under the Department's comprehensive legislative proposals submitted to the Congress on February 21, some non-Federal contribution would be required for the construction of all water resources projects. The amount of that contribution would be dependent on the ease with which the non-Federal sponsor could recover its capital investment through user fees or other benefit-based charges. The new costsharing objectives reflected in the Army's legislative proposals are specific to individual project purposes. We believe that it is essential to maintain consistency in costsharing by project purpose in the interests of treating all sponsors fairly and comparably.

We acknowledge that Congress is the ultimate reviewer of budget and legislative proposals and may want to consider unique circumstances which affect specific projects.

In formulating our fiscal year 1986 new starts in the President's budget, we offered flexibility in financing to the sponsors of those projects with less than fully vendible outputs. This flexibility, underscored in President Reagan's water policy letter of January 24, 1984, to Senator Laxalt, responds to the concerns of some Members of Congress and to Governors and others as well as our own concern by providing for reasonable financing arrangements for new projects while seeking consistency in cost sharing by project purpose.

Some members, we are sure, will continue to be concerned that the new financing policies might favor wealthier regions and communities. They do not. The policies are tied to the flow of benefits produced by the project, not the wealth of the beneficiaries. Whenever a project is truly productive in the sense that its benefits exceed its costs, the local sponsor should be able to pay the required cost share as the benefits of the project are accrued. If the sponsor is willing to recover its portion of project costs through benefit-based fees, it can pay the requested share of project costs by capturing a share of the flow of project benefits.

This hypothesis is strongly supported by our experience during the last 3 years. Out of 40 offers we have made all over the country, only 6 local sponsors have rejected our cost sharing proposals. Three of those made substantial counter offers and none were based on a claim of financial inability.

We have seen some unwillingness and some preference to wait and see what the Congress does. Moreover, while there are a number of new starts being proposed that are in wealthier communities, we find the wealth of other project sponsors is below the average, but they are still participating, probably for the single reason that these projects where the benefits are real can be translated into economic terms that the communities themselves can tap in the future, notwithstanding their present financial straits.

Finally, we are proud that we did not screen the eligible projects to assure a successful result. On the contrary, our projects are simply those that came through the Corps of Engineers usual system.

Let me touch very briefly on expenditures for operation and maintenance of completed projects. That will continue to demand the largest share of our budgetary resources, at least in fiscal year 1986 and in the next few years. Starting in fiscal year 1986, under the Army's legislative proposals, beneficiaries would pay a larger share of the cost of operation, maintenance, rehabilitation, and replacement.

It should be noted that the levels of cost recovery proposed for navigation are substantially less than those first proposed by the Army. This represents a compromise between the sound economic principle that beneficiaries should bear the costs and, on the other hand, the desire for an implementable proposal. Let me further state that while we have worked hard to develop proposals that are economically and politically sound, we are certainly open to other proposals that will provide for similar levels of non-Federal participation.

In addition to the costsharing legislative initiatives that I have outlined earlier, there are several other items in the legislation that we have forwarded for consideration by the 99th Congress. Let me just touch briefly on those.

We sent up a bill, as you know, that seeks authorization for over 60 projects and has a total implementation cost of about $4 billion.

Another area is recreation user fees, and we are proposing to eliminate the prohibition on the authority of the Corps of Engineers to impose fees to help offset the cost of operating and maintaining project recreation lands and facilities. The current fee system is limited to the collection of fees for specialized recreation services, primarily overnight camping. Current collections amount to only about 10 percent of costs. The proposed legislation would allow an increase to get that up to about 25 percent.

Let me mention one other area quickly before concluding, Mr. Chairman, and that is the issue of costsharing on studies, Corps of Engineers studies. I might note that Senator Chafee has been a leader in this, and I know the committee has also in its own omnibus legislation endorsed the idea of costsharing on studies. This is also a part of our effort, and we are hopeful that this committee will continue to support the idea of costsharing on studies which would basically enable the project sponsor to display their commitment and interest in the project at the earliest stages and costshare in the study at that early stage which we think would be a good screening device so that only the best projects come to you ultimately for authorization.

Mr. Chairman, in reporting to you on the complex issues and accounting inherent in any budgetary presentation, our central focus continues to be on the reality of the water problems facing our Nation and the need to improve the nation's infrastructure in an efficient and timely way.

Your actions will have important and far reaching impacts on this nation's wellbeing, and many citizens anxiously await revitalization of the Civil Works Construction Program. To be direct, we need your help. We would not be here today had it not been for your leadership and tough decisions, as I mentioned earlier, in the last Congress. We are hopeful that your recommendations to the Budget Committee will support our proposed program, including the non-Federal payment for studies, construction, and O&M. We also look to this committee to expedite its efforts to enact legislation that would make these budget recommendations a reality and, at the same time, provide the necessary authorizations and generic cost sharing formulas that will encourage the orderly development of productive water projects to resume once again.

Pending enactment of this vital legislation, we are seeking your assistance in requesting the Appropriations Committee to remove its objections to our implementing the cost sharing of feasibility-phase studies and for new construction projects that are in the President's budget and could move ahead within the next few months.

We all share the awareness of the deserving communities and individual citizens who are awaiting flood protection, harbor improvements, and other valuable services that can be provided by water projects. If something is not done soon to break the logjam, Mr. Chairman, the history of the program for the last decade or so will be read, in my judgment, as a testament to the inability of the Government to respond to new challenges in a timely and responsible way.

There can be revitalization in the Water Resources Program in spite of the Federal budget crisis. We all know that the budgeted new construction start proposals demonstrate, in our judgment, that non-Federal interests are willing and able to contribute substantially more than they have in the past. There is no good reason remaining for delay.

Mr. Chairman, if I might end with a personal reference, I have been actively engaged in the water resources development arena for the past 13 years, much shorter, I know, than many of you but I think long enough to say that we have, in my judgment, a historic opportunity to move forward. I am frankly not sure how many more opportunities like this we will have. I stand ready to work with you and with the Congress, generally, to move aggressively forward, not later, not next year, but this year. In my judgment, the project beneficiaries, in many cases, are ready. The mechanisms are ready, and the time is right. The remaining question may be whether we in Government, in both the executive and legislative branches, have the will and the wisdom to show that Government can act, that the Government will do its part, and that we, too, are ready to move ahead.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Mr. Secretary.

Senator Chafee, did you have an opening statement?

Senator CHAFEE. I do, Mr. Chairman. I will just submit it for the record.

[Senator Chafee's statement follows:]

STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Mr. Chairman, I want to welcome Secretary Dawson and General Wall here this morning. I look forward to joining with other members of the committee once again this year in attempting to fashion a responsible water resources authorization bill. Senator Abdnor in particular should be commended for his efforts on this legislation last year.

One problem has consistently frustrated our efforts to break the eight-year logjam in water project authorizations—the lack of consensus over how to finance expensive projects which clearly benefit an identifiable group of users. We all agree that a growing number of extremely worthwhile water projects are being delays. But we—congress, the administration, the waterway industry—have been unable to agree on cost-sharing requirements which will place a greater emphasis on the commitment of non-Federal resources in such projects.

Clearly, the time for cost-sharing on these projects has come, and the Corps of Engineers' budget for fiscal year 1986 is the appropriate place for us to focus on the problem. Lack of new project authorizations has reduced the corps' construction budget in recent years so that now, operation and maintenance has surpassed construction in expenditures. The Federal budget deficit severely constraints our ability to increase spending on water projects. And so it will continue to decline until we devise a new way to pay for these activities.

The administration's budget proposal for the Corps of Engineers places the need for cost sharing into sharp focus. For fiscal year 1986 the budget proposes activities equal to this year's appropriation, but $470 million less is requested in spending. In other words, to provide for a freeze of corps activities we will have to do one of three things:

1. Come up with $470 million in user fees;
2. Make $470 million worth of cuts in corps programs; or
3. Ignore the deficit, pretend the whole problem will go away, and add the $470 million back to the budget.

At a time when every segment of the Federal budget is under careful scrutiny in the search for savings, I regard the last option as unacceptable. Look at the areas which the administration has asked Congress to cut this year—funding for the School Lunch Program, for student loans, for public transit, for low-income housing, for veterans medical care, for health professions training, and so on. When savings are being sought in these activities, how can we not look seriously at imposing cost-sharing requirements on the commercial beneficiaries of Federal water projects?

I look forward to examining these questions this morning.

Senator STAFFORD. Gentlemen, might we say 10 minutes apiece on the first round of questions, if we need that much time? Would that be agreeable? Hearing no objection, we will do it that way.

Mr. Secretary, we welcome your testimony, and we can assure you this committee will cooperate with you and the Army to try to get this job done.

A number of questions regarding the corps budget were sent a couple of weeks ago, and we have not yet received the answers. We would like to get them as expeditiously as we can so we have those.

Secretary DAWSON. We have those now, Mr. Chairman.

Senator **Stafford**. You have them with you?

Secretary **Dawson**. Yes, sir.

Senator **Stafford**.Very good, then, we will make them part of the hearing record. (See p. 585.)

Mr. Secretary, would you or the General or both of you, if you wish, explain the net level of Federal appropriations for the Corps of Engineers requested for fiscal year 1986, assuming no user charges, and what that level of appropriations would mean for the program? This seems to be the issue that Senator Abdnor and I have both been preoccupied with.

Secretary **Dawson**. I think it is a central issue, and I appreciate the sentiments behind the questions that both you and Chairman Abdnor raised.

I would say, first, that rather than our intending this to be any sort of budgetary gimmickry, our effort is really to try to assist this committee in what has been, I think, a noble effort to try to bring about some solution to the user fee issue. By budgeting this the way we did, I think our effort was to provide some momentum and impetus to the effort to get an omnibus bill and to get a solution.

We are optimistic about the chances of a bill. We are committed to working very hard to get a bill and appreciate your willingness as well. I think the fact that the administration has come forward with an omnibus bill of its own, as far as I know the first time that has occurred in history, shows that we are backing our optimism up with real action. We are much more serious this go-around about getting a bill. So, first of all, I think we are genuinely hopeful that we can get user fees, so that was not an empty gesture.

We recognize though, as you have, the possibility that we may not get the user fees that we are seeking. Maybe we will get part or maybe the process won't come together at exactly the right time. So, we would have to work with you and with the Appropriations Committees to look at a wide range of possibilities.

One possibility, of course, would be to look at other parts of the corps program. Another would be to request some additional budgetary funds. I would say, though, that we would certainly work to make sure that the priority dredging did occur. There is certainly no intent that those priority projects not be attended to. I think it is simply a recognition, Mr. Chairman, that we are all up against a very, very serious budgetary problem and, in an imperfect way, perhaps, it is our attempt to recognize and grope and grapple with that reality. But we do, again, recognize that we are going to have to come back and work closely with you to address that concern.

Senator **Stafford**. Thank you, Mr. Secretary. I commend you for the work that you have done to develop a cost sharing plan for general investigation studies. That initiative fits right in line with the thinking of our committee as well as the study resolutions we have adopted over the past couple of years. Could you please provide a list of the studies on which there will be cost sharing during fiscal year 1986 and tell us what agreements you have reached with non-Federal interests?

Secretary **Dawson**. Yes, sir; we will supply for the record a listing of those studies that are about to leave the reconnaissance phase and go into the feasibility study phase. We are not yet actually implementing cost sharing because of restraints that have been put on us by the Congress, but we are anxious to move ahead with that. I think that list will show you the potential that is immediately available to us in that regard. (See p. 593.)

Senator STAFFORD. Thank you. You know, having served on this committee when Jennings Randolph was its very able chairman for many years, I learned from him that you should always be a little parochial somewhere in the course of a hearing. That brings me to the Waterbury Dam in Vermont which does evoke considerable concern in the communities around it. I wonder if you could tell us what money, if any, is needed for work there and what the present status of that particular matter is.

Secretary DAWSON. Yes, sir. I would like to defer to General Wall for the particulars on that, but I would like to say first that I don't know of many projects that my office has worked more on because of your interest, Senator, and we have had a number of discussions on that. I think good progress is being made to correct the outlet problem and the seepage problem.

John, perhaps you could elaborate on that.

General WALL. Thank you, Mr. Secretary.

Mr. Chairman, we are moving ahead with that. As a matter of fact, we only have one more contract to award. We are working busily. We awarded the next to the last one on December 14, 1984, for $650,000. The total modification will be awarded shortly. I think probably in the next month, in April. We look forward to completing the whole project in November of this year.

Senator STAFFORD. Thank you very much. I am sure that will relieve the people in that area.

Senator Abdnor?

Senator ABDNOR. I may be parochial, too, right off the bat.

Senator STAFFORD. Save it till your last question.

Senator ABDNOR. I may be in a better position to do it at the outset than at the end.

Are you familiar with Pickstown up in South Dakota?

Secretary DAWSON. Yes, sir.

Senator ABDNOR. I have been concerned about what is left of it for quite some time. It is practically extinct as a town but there are a few people living there. We have included a provision in S. 366 as we did last year allowing for the transfer of Pickstown. I am wondering, would you support separate legislation authorizing the transfer of the Pickstown property to the local government entity and to the citizens of that town? Perhaps you can answer that in writing.

Secretary DAWSON. Yes, sir; I would like to give you that, if we could, for the record.

Senator ABDNOR. Yes; I wish you would.

[Information requested follows:]

Senator ABDNOR. Would you support separate legislation authorizing the transfer of the Pickstown property to the local government entity and to the citizens of that town?

RESPONSE. That would depend upon the provisions of such legislation. The Department of the Army has determined that it no longer requires administrative control of most of the land and improvements comprising Pickstown and two other townsites along the upper Missouri River. However, legislation we have seen over the past several years contained Federal subsidies that we believe are not necessary to effect a transfer from Federal ownership. We would support separate legislation authorizing the transfer of Pickstown from Federal ownership if such legislation contained no unwarranted subsidies.

Senator **Abdnor**. I promised Senator Baucus, who couldn't be here today, that I would submit questions to you on his behalf. His concerns have to do with plans to transfer ownership of three townsites. He includes my Pickstown, but he is more interested, I am sure, with Fort Peck, MT, and he mentions Riverdale, ND. He wants to be kept informed of developments regarding this plan. Senator Baucus says:

> . . . I continue to be concerned, as I have been for several years and as the Corps knows, that any plans for ownership transfer should be fully known and understood by the residents of these town sites and the affected county governments.

He goes on. I think I will just submit this and you can respond.

Secretary **Dawson**. Yes: we will address those, too. (See p. 626.)

Senator **Abdnor**. I just want to say, it is apparent that the chairman and I, at least, have great concerns about where we are going in water policy. I thought we had an outstanding proposal last year but I couldn't sell it to the Congress, it was held up after we reported it out of committee almost unanimously. The proposal you just gave me will be much more difficult to sell, and we have to be realistic about it. That is why we are wondering about what will happen if the proposed added extra revenues that you are anticipating and I have grave doubts about whether we will ever see them do not, come to pass. Hopefully, you will give us more detail. I think, Mr. Chairman, wouldn't we ought to have an alternative budget here in the event this doesn't come to pass?

Senator **Stafford**. I think that very well may be the case.

Senator **Abdnor**. I think you gentlemen ought to be thinking about it. Unless you know more than we do about what the Finance Committee may do with respect to this; we know what happened last year. So, I think it ought to be something we think about.

I have a number of questions, and we could be all day on them. I would just as soon submit them to you in writing for answers, if that is all right.

Senator **Stafford**. All right. The Chair also has some questions that will be submitted in writing and, without objection, the Chair would reserve the right for members who can't be here today to submit questions in writing within the next 2 or 3 working days if they wish to do so. (See pp. 635 and 656.)

Senator **Stafford**. Senator Burdick?

Senator **Burdick**. Thank you, Mr. Chairman.

It is my understanding that the gentlemen will return to the committee on the question of user fees. Is that correct?

Secretary **Dawson**. If we are invited, we certainly will, yes, sir.

Senator **Burdick**. The chairman tells me that before we get into this subject in depth, we are waiting for the findings of the Finance Committee, but I assure you that I intend to be in depth on that one.

It might be helpful if I could give you the questions today so that when you call back again you could have had time to give some answers.

Secretary **Dawson**. Very good, sir.

Senator BURDICK. So, if that is satisfactory, I will have the questions mailed to you.

Secretary DAWSON. That would be helpful, sir.

Senator BURDICK. Thank you. (See p. 659.)

Senator Stafford. Thank you, Senator Burdick.

Senator Chafee?

Senator CHAFEE. Thank you, Mr. Chairman.

Mr. Dawson, on the subject of the cost-sharing studies, as I recall. the way we had it set up, was that you would first do a quick feasibility study entirely at the cost of the Government. That you have done. Then, you would proceed to a more intensive study. What would be the name of that?

Secretary DAWSON. That is the feasibility study phase.

Senator CHAFEE. What is the first one, then?

Secretary DAWSON. Reconnaissance.

Senator CHAFEE. Excuse me, the first one is a reconnaissance study. Then comes the feasibility study. The idea that we have been working on for many years here is to have the local government or entity, whatever it is, share the cost of that in proportion to what the cost would be on the final project or at 50–50?

Secretary DAWSON. 50–50.

Senator CHAFEE. But then in your remarks here this morning, you mention that you can't do it because of limits placed by Congress on your ability to do this. What are these limits? Is there a specific statute that we have here?

Secretary DAWSON. No, sir. What we were referring to there is report language that the Appropriations Committees have inserted which forbid us to install cost sharing of any kind, including specifically study-cost sharing. Without that, we believe we have the authority under the law to implement this now, and we believe that the sponsors are able and willing if we could forge ahead on that. So, that is what we were hoping we could get your support to remove any such prohibition.

Senator CHAFEE. Those prohibitions come up in report language from the Appropriations Committee?

Secretary DAWSON. Yes, sir.

Senator CHAFEE. I see. I can see how they can have report language for cost sharing for the projects themselves, although I don't agree with it, but they also specifically refer to studies as well.

Secretary DAWSON. I think it is just generally. I am not sure that they specifically refer to studies. I think your point is well taken, Senator Chafee, particularly in light of the fact that this Committee, in its omnibus bill, called for cost sharing on studies. So did the House omnibus bill, though at a lesser percentage. So, I think there is more and more reason to let us go forward.

Senator CHAFEE. The House bill called for it. Do you know what the percentage was?

Secretary DAWSON. I believe 25 percent.

Senator CHAFEE. All right. I appreciate your letting me know that. Do you folks support that effort?

Secretary DAWSON. Yes, indeed, absolutely.

Senator CHAFEE. The other questions I had, Mr. Chairman, deals principally with the user fee and the difficulties that we have run into in the past, although this committee has always brought them out, but I do think that we are going to get into a situation of a new budget of some type if, as I understand it, the one you have submitted here figures in the $470 million.

Secretary DAWSON. Yes, sir.

Senator CHAFEE. Well, I am all for it, but we just don't seem to be able to get it.

What is your thought, Mr. Chairman, that they would have to come up with some kind of a new budget.

Senator STAFFORD. Well, we have been discussing, I would say to my friend, the fact that we very well may not have the $470 million, that we should be thinking in terms of an alternative budget if that is the case. As my colleagues know, we have agreed with the chairman of the Finance Committee that that committee would take the first cut at user fees, and the chairman promised our committee he would do so with reasonable promptness so we will know whether or not there will be a real chance for some user fees and we can make our plans accordingly. If user fees aren't to be, we won't be spinning our wheels under the illusion that there might be some.

Senator CHAFEE. Yes.

One other question, Mr. Dawson, getting back to the sharing of the feasibility studies, is the report language legally binding? Do you look on it that way?

Secretary DAWSON. I am not certain that it is, Senator Chafee. That is certainly an area that ought to be looked at. It is always our desire to respond as positively and responsively on report language as we can. I think you could certainly argue that it is not legally binding.

What we have done as a middle ground is to go ahead and approach the non-Federal sponsors of the studies that are nearing the feasibility stage point and ask them for a conditional agreement indicating their willingness and ability to cost share on the feasibility phase if and when we are able to implement, and that is where we are right now.

Senator CHAFEE. What do they say?

Secretary DAWSON. We have obtained the first four agreements indicating that they would be able and willing to cost share. Others are waiting, I think, to see how this all washes out.

What we are saying is that in return for signing this conditional agreement, we won't review the reconnaissance at the Washington level as closely, with all the delay and uncertainty that would bring, and can move right on into the feasibility phase. The problem is we are doing that feasibility phase at 100-percent Federal when we would like to be doing it at 50-50. I am now told that five—we had one other more recently—that five have signed this conditional agreement.

Senator CHAFEE. Saying that what, that they will pay 50 percent?

Secretary DAWSON. That they are willing and able, if and when we are in a position to implement it, that they will pay the 50 percent.

Senator CHAFEE. Implement means when you are ready to go to the feasibility study?

Secretary **Dawson**. No, sir, when we are ready to make the cost sharing effective. In other words, when the Congress turns us loose or if we find some other way to implement the policy, they are willing and able to participate at a 50–50 cost sharing basis.

Senator **Chafee**. But you feel constrained by the report language put in by the Appropriations Committee?

Secretary **Dawson**. At this moment, yes, sir.

Senator **Chafee**. Well, I would urge you on. My own thought is that when the Appropriation Committee puts that language in, and I am reading into it obviously, but my thought is that really what they are thinking about is the cost sharing of the projects rather than the study. Maybe they are thinking about the studies. You have been before them, obviously, and heard them, but I think I might ask them what they are thinking about.

Secretary **Dawson**. Senator Chafee, I might note that in recent testimony before both the House and the Senate Appropriations Committees, we received quite a bit of questioning and concern about the what I would call meager steps that we have already taken, that is, the agreements that I mentioned. However, I think——

Senator **Chafee**. You mean concern they don't even want that?

Secretary **Dawson**. Yes, sir. But I think because of the actions this committee has taken, I am optimistic that we can ultimately prevail. We surely need your continued support to do that.

Senator **Chafee**. Well, I am glad to hear about your optimism, but I am not sure on what basis it is justified. I think I started this minor crusade about 1977, and now we are up to moving it to the front of the agenda, but no results so far. Well, good luck to you.

Secretary **Dawson**. Thank you, sir.

Senator **Chafee**. Thank you, Mr. Chairman.

Senator **Stafford**. Thank you, Senator Chafee.

Senator Bentsen, we are very glad that as the ranking member of the committee you are here.

Senator **Bentsen**. Thank you very much, Mr. Chairman. I apologize for not being here sooner, but I had a commitment downtown.

Mr. Dawson, we are delighted to have you and General Wall.

Secretary **Dawson**. Thank you, sir.

Senator **Bentsen**. When I first look at this budget, it is very close to last year's budget, but then as you delve into it, you see that the administration is talking about getting some additional funds by going to non-Federal sources and, in addition, going beyond that, some recovery of about $470 million in that regard, of which about $403 million or something like that would be picked up by user fees. That is with the assumption that that piece of legislation is going to pass. I think ultimately, it is going to pass, but what happens if it doesn't in this particular timeframe that we are addressing? What is the fallback position?

Secretary **Dawson**. I think we are going to have to work very closely with you, Senator Bentsen, and the committee to find the best fallback. We don't have any fallback now. I could see a range of possibilities from finding other parts of the Corps program that this might have to come from or some additional budget request or some combination of those items.

We are hopeful that the cost-sharing issue can be addressed and, as you know, we have submitted our own omnibus bill to get the administration playing earlier as a full partner in trying to reach a solution on user fees which we didn't do as fully and early in the last Congress. So, I would hope that we could move aggressively toward resolving the overall issue, but if we don't, as you suggest, then I think we are going to have to work very closely with you and get your input on how best to adjust to that.

Senator **Bentsen**. General Wall, I was pleased to see that you have some 29 new project construction starts outlined here, but I also noticed that 6 of them have not been authorized. I was curious to know why you had to resort to that. Was that because you did not get anticipated or sufficient financial participation by non-Federal sponsors and beneficiaries of a sufficient number of authorized projects?

General **Wall**. In my opinion, sir, we haven't had an omnibus bill, as you know. If we had had one, these six probably would have been in there. There is wide support for them. Also, primarily we had voluntary cost sharing for these six projects. That makes us very encouraged that we can go ahead and with good conscience recommend those projects for new starts.

Senator **Bentsen**. That doesn't really answer my question. What I am trying to find out is did you not get sufficient non-Federal participation in enough other projects that were already authorized to have those designated ones?

General **Wall**. I think that is right. I think our list of authorized projects is very thin right now.

Senator **Bentsen**. But you can get sufficient non-Federal participation.

Secretary **Dawson**. Senator, I don't believe, if I might interject, it is not a question of finding enough people willing to cost share. It is just a question of the sample of projects to work with. We started out with 40 projects. Twenty-nine of those have stepped forward——

Senator **Bentsen**. You are talking about authorized projects. That is thin. Is that what you are saying?

Secretary **Dawson**. That is right. It is not a question of our failing to reach agreements. We have had very few rejections and we have not selected our sample any special way. We have just taken all of the projects that have come through the Corps process.

Senator **Bentsen**. The barge industry comes to all of us on the committee and I am sure they are telling us all the same thing, that any increase in the user fee means they go out of business. They are hanging on the ropes now, a lot of them are awash in red ink, some of them are in bankruptcy proceedings, that there is consolidation of the industry because they can't make it. Yet, the user charge is contemplated by the administration in this bill, as I understand it, is higher than what we in this committee have approved before.

What study have you made as to what the economic impact will be on the barge industry? Do you validate what they are saying to us or do you question it or do you discount it? Tell me about it.

Secretary **Dawson**. Senator Bentsen, I would like to ask Dr. Dickey in a moment to address that more specifically. We are very much aware of those concerns. We have met with the inland waterway people as well. One of the reasons we submitted a separate bill on inland——

Senator **Bentsen**. Do you believe those concerns? Do you believe what they are saying to you?

Secretary **Dawson**. Certainly, we are very much aware that there are great problems in the inland waterway industry. There is no question about that. We know, however, that there is a great need for improved efficiencies in the system which would include some new projects, and we are faced with the reality that if we get those projects, we must come up with some other——

Senator **Bentsen**. Are you speaking of improved efficiency from the standpoint of your responsibility as to certain projects, that if those projects were approved there would be greater efficiency? Is that what you are saying or are you talking about the mechanics of the barge industry itself?

Secretary **Dawson**. I am speaking of both of those, Senator. It would help them move their barges more easily. On the question of the impacts, let me ask Dr. Dickey if he would address that part of your question.

Dr. **Dickey**. Let me just say, Senator, that we of course have done some analyses which, in a mechanical way, lay out the impact. The administration, however, is very concerned about the impact not only of this user fee but others that the Department of Transportation and others are considering. As a result of that concern, the administration has put together a group to produce a coordinated analysis. We will be happy to supply that for the record when it is completed.

Senator **Bentsen**. All right. Thank you.

I have no further questions, Mr. Chairman. Thank you.

Senator **Stafford**. Thank you very much, Senator Bentsen.

I have just one last question. Mr. Secretary or General, there was a Department of Transportation study on the impact of user charges some time back. Are you aware of it and, if you are, could you tell us briefly what it did show?

Secretary **Dawson**. I am aware of it, and I would like to defer to Dr. Dickey again.

Senator **Stafford**. All right.

Dr. **Dickey**. Mr. Chairman, the Department of the Army participated in the formulation and execution of that study. It is on the basis of that study that the approach that we have taken with regard to cost recovery was developed in the sense that we have gone to a systemwide fee as opposed to a segment-specific approach and so forth. That study, of course, did lay out various kinds of impacts. One of the things that we expect to do as part of the coordinated administration effort is to update that. Again, I expect to have that analysis available shortly.

Senator **Stafford**. Thank you very much, Dr. Dickey, and thank you all very much. We may have to meet again. We will see how the Finance Committee treats us.

The committee stands adjourned.

[Whereupon, at 11:03 a.m., the committee recessed, to reconvene subject to the call of the Chair.]

[Mr. Dawson's prepared statement and responses to additional questions follow:]

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

STATEMENT OF ROBERT K. DAWSON
ACTING ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS) BEFORE THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS ON THE FISCAL YEAR 1986 CIVIL WORKS BUDGET

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

INTRODUCTION

I am pleased to appear before your Committee today to discuss the Army's Civil Works Program and the Fiscal Year (FY) 1986 Budget Recommendations. The Director of Civil Works, Major General John F. Wall; the Chief of Programs, Dr. Bory Steinberg, and Dr. G. Edward Dickey, my Deputy for Program Planning are with me and will assist in presenting the Army's testimony.

With your permission, Mr. Chairman, I would like to proceed by presenting an overview of my statement, and ask that my prepared statement be placed into the record. We would then be available to answer the Committee's questions.

My statement addresses these topics: the FY 1986 budget including the context, policies, legislative proposals and directives that contributed to its formulation; and the regulatory reform; and ocean disposal programs.

CONTEXT OF THE CIVIL WORKS PROGRAM FOR FY 1986

President Reagan has stated: "Providing enough high quality water promptly to those who need it is a task that has confronted Americans since the earliest days of our national experience." We know that this Subcommittee continues its commitment to working with the States, local entities, and those private sector interests concerned with water development all across America on this never-ending challenge. It is in the spirit of working with you to rebuild the Federal-State partnership, so that we can resume water development efforts to avert water crises in the coming decades, that we present our testimony today.

The Department of the Army has done all that it could during the past four years to develop a new means to move forward with the Civil Works Program executed by the Corps of Engineers. For over a decade, this program had been in a state of retrenchment as the traditional terms for authorizing and implementing projects apparently lost favor with the American people and thus with the Congress. In spite of our efforts to date, we have been unsuccessful in convincing Congress of the merits and value of a new charter for water resources development and management by the Federal Government in partnership with the States and local project sponsors. But I believe there have been lessons learned on all sides. The proposed FY 1986 program, of necessity, is premised on the enactment of new legislation, and I am hopeful that there will be the will and the wisdom to get the job done. I should note at this point the outstanding efforts and leadership of this Committee in the last Congress to grapple with these difficult issues. I believe the work of the members and the staff of the Committee did as much as any other single factor to move us in a direction that now makes it realistic to hope that signable legislation can be obtained.

The legislation which we are proposing would accomplish three objectives: (1) authorize more than 60 projects, six of which are proposed as new contruction starts in FY 1986; (2) provide for substantial navigation cost sharing and cost recovery as well as new financial arrangements for other project outputs; and (3) provide new authorities to facilitate efficient Federal water development and management.

FISCAL YEAR 1986 BUDGET

Summary

The gross FY 1986 budget request for the Civil Works program totals $2.338 billion. Based on proposed legislation and/or voluntary agreements with local sponsors of new construction projects, we anticipate cash contributions from non-Federal sponsors of both new construction projects and feasibility studies and receipts from navigation user fees to be $470 million. The requested Federal appropriations when supplemented by new non-Federal payments would provide the Corps of Engineers with total new program funding in FY 1986 of $2.808 billion. Under the proposed legislation, the increased non-Federal share of programmed costs would be made available to us on a "pay-as-you-go" schedule. The net financial result of this approach is to reduce the level of funds that the Congress has to appropriate while assuring that the amount of new funds provided is adequate to meet all scheduled program requirements. The $2.808 billion in new program funds compares favorably with Federal appropriations and sponsor contributions of some $2.83 billion in FY 1985 and demonstrates that, in the area of water resources development and management, it is possible to maintain the same level of activity in spite of the necessity to reduce Federal spending. A table comparing the funding levels of the individual appropriation titles for the period FY 1984-1986 inclusive is attached for the Committee's reference.

Presidential Initiatives

I should point out that the FY 1986 budget reflects the reductions applied by the President to all domestic programs. These include: a freeze of requests at the FY 1985 level or FY 1986 request, whichever was lower; a 10% reduction in administrative expenses; and a 5% pay reduction, effective January 1, 1986. We have also reviewed the recommendations of the Grace Commission with a view to implementing selected ones that involve the Corps of Engineers. As mentioned, we have proposed legislation which would result in increased user fees for navigation and general recreation. The budget request also provides funds for an increased number of studies and efficiency reviews, which will lead to productivity improvements involving both commercial and non-commercial activities.

CONSTRUCTION OF NEW PROJECTS

We continue to strive to re-establish a strong development program with cooperating States and local sponsors. In the FY 1986 Budget, we propose to initiate construction of 29 new projects including six which require construction authorization. Seventeen of these new construction starts are local flood control projects; five are deep-draft navigation projects; three are multiple-purpose reservoirs providing water supply, flood damage reduction, and recreation benefits; three are hydroelectric power projects, two of which involve installation of generation facilities at existing Corps reservoirs; and one is for replacement of locks and rehabilitation of the dam at one of the essential elements of the Inland Waterways System. While 13 of these projects had been included in previous budgets but were not acted upon by Congress, 15 are additional new construction projects based on newly negotiated financing arrangements. We believe these projects demonstrate further the willingness and ability of local sponsors to increase their financial participation in new project development when a strong, productive project exists, a project sure to provide a return on their financial investment. Also included as a new project is one inland navigation project, Gallipolis Locks and Dam on the Ohio River, which reflects the willingness of the Department to undertake navigation investments conditioned on a substantial, that is, 70 percent, financing contribution from the waterway beneficiaries to new project construction as well as to ongoing operation and maintenance expenses.

The 29 new projects represent a capital investment of slightly under $1.6 billion. Under the cost sharing arrangements we have negotiated with sponsors and inland navigation user fees, non-Federal funds would be used to finance almost $900 million, or about 57 percent, of total implementation costs. Under traditional arrangements, non-Federal funds would have been used to finance less than $200 million, or about 12 percent, of project implementation costs. With this Committee's support, and that of the Committees on Appropriations, this investment could be underway as early as October and begin to produce benefits within one to two years. A three page table comparing the differences in cost sharing under traditional and the arrangements we have negotiated for the 29 projects is provided for the record.

COST SHARING POLICIES FOR NEW PROJECT CONSTRUCTION

General

Bills addressing the issue of cost-sharing were developed during the last Congress by this and the House authorizing committee and since have been reintroduced in this session. While both bills endorse the basic goal of increased non-Federal financial participation in project development and operation and maintenance, they do differ in the extent of non-Federal cost sharing and financing and, indirectly, the role of the Federal Government in the construction, and/or operation and maintenance of projects with certain outputs, most notably commercial navigation, recreation, hydropower, municipal and industrial water supply and hurricane protection. Under our legislative proposal, some non-Federal contribution would be required for the construction of all Federal water resource projects. The amount of that contribution would be dependent on the ease with which the non-Federal sponsor could recover its capital investment through user fees or other benefit-based charges. For example, for fully vendible outputs, such as hydropower and municipal and industrial water supply, 100 percent recovery of costs, as is now required by law, has been relied on as a source of project financing. For outputs such as flood control and general recreation, which are not fully vendible, the level of cost sharing has been increased to provide a more equitable balance between Federal and non-Federal interests and yet, in our view, still encourage the advancement of meritorious projects. For navigation, a major share of the assigned costs for this output is proposed to be borne by non-Federal interests. The level of Federal funding being retained for navigation is sufficient to assure that a national interest is preserved in the development of deep-draft and shallow-draft channels and harbors along our coasts, on the Great Lakes, and on inland waterways.

The new funding arrangements we have negotiated for new construction start projects, and the generic cost sharing legislative authorities we are proposing, reflect the economic realities of water project development and the potential for increased beneficiary participation in project cost sharing and construction financing and the Federal budgetary realities the Committee and we in the Administration face. Just as we have learned much in the process of negotiating new financing arrangements, we also have benefitted from the continuing dialogue with Congress, State and local governments, private financing institutions, and interest groups. Particularly noteworthy has been the range of options available to sponsors as they seek to minimize the cost of providing their share of project financing.

The overall objective of the Army's new construction starts initiative has been to develop policies which will maximize the amount of new water project construction that can be supported with the limited Federal funds which are available in the face of current budget deficits and changed spending priorities. In pursuing this objective, we have sought to accommodate the full range of project types and local sponsor capabilities to finance productive projects.

Millions of American citizens, as users of project-provided goods and services, directly benefit from Federal water development. Millions more are indirectly affected by project development, as the benefits of development are diffused throughout the economic system by the ordinary operation of the market economy. The economic benefits of water projects provide a basis for non-Federal financing when the institutions are in place to allow a share of those benefits to be captured through user fees and other benefit-based charges.

Consistency

The new cost sharing objectives reflected in the Army's legislative proposals are specific to individual project outputs or purposes. We believe that it is essential to maintain consistency in cost sharing by project purpose, in the interest of treating all sponsors comparably. Nothing would detract more from the Department's credibility than to approach sponsors of similar types of projects on different terms. Indeed, a question frequently asked of District Engineers, as they approached potential sponsors, concerned the terms being offered to other sponsors.

Financial Assistance

We acknowledge, moreover, that Congress, as the ultimate reviewer of budget and legislative proposals, may want to consider unique circumstances which affect specific projects. It should be recognized that the Department has introduced new flexibility with regard to the amount that is to be financed by project sponsors during the construction period. Where projects produce the less-vendible outputs, such as flood control, there may be financing problems; and the Department is prepared to address that need, a need which we recognize is of great concern to the Committee. The approach in the generic legislation, as well as in the budgeting process, has been to look at the ability of sponsors to pay during the construction period, that is, in anticipation of receipt of benefits, as opposed to over time as benefits are actually received.

In formulating our FY 1986 new starts, we offered flexibility in financing to the sponsors of those projects with less-than-fully-vendible outputs. This flexibility, underscored in President Reagan's Water Policy letter of January 24, 1984 to Senator Laxalt, responds to the concerns of some members of Congress, Governors and others, as well as our own concern, by providing for reasonable financing arrangements for new projects while seeking consistency in cost sharing by project purpose.

Some members, we are sure, continue to be concerned that the new financing policies might favor wealthier regions and communities. They do not. The policies are tied to the flow of benefits produced by the project, not the wealth of the beneficiaries. Whenever a project is truly productive in the sense that its benefits exceed its costs, the local sponsor should be able to pay the required cost share as the benefits of the project are accrued. If the sponsor is willing to recover its portion of project costs through benefit-based fees, it can pay the requested share of project costs by capturing a share of the flow of project benefits.

Cost of Borrowing

In some instances, however, it may not be possible for the sponsor to pay all of its share during the construction period. Such difficulties may arise as a result of the community not being able to borrow at reasonable terms from the private capital market for a variety of reasons. By the refinements we have made in the new start program and in the generic cost sharing legislation which we are proposing, we have responded to that concern. When a sponsor of a project producing an output such as flood control is unable to provide its share of funds during the construction period, we will lend the sponsor Federal funds at an interest rate reflective of the cost of Federal borrowing for the period the loan is desired. This has the effect of making credit available to every flood control project sponsor at the cost of funds borrowed by the Federal Government from the private sector.

Because most sponsors have access to capital markets through the issuance of tax-exempt securities, it should not be surprising that only one sponsor has requested a possible Federal loan to finance its share, a 35 percent contribution, of the cost of obtaining its flood protection project. The Department believes that by placing an effective ceiling on the cost of raising capital to finance the local share of flood control and other less-than-fully-vendible outputs, we can assure that every sound project can be implemented in a timely way.

Financial Considerations

Congress also should be aware of the tremendous effort that water project sponsors are making to implement their projects in a timely and efficient way. These efforts are reflected not only in the stated commitments underlying new starts, but also in the news articles and in the letters we are receiving which recount the innovative means which sponsors are developing to implement and finance projects. No better demonstration of this impressive commitment by States and sponsors can be found than in the case of deep-draft harbor improvements. The Baltimore, Norfolk, Mobile, and New Orleans harbor and channel deepening projects are receiving unprecedented scrutiny as sponsors look for means to either stage project contruction or even modify the project plan so that implementation can proceed in accord with projected benefits and their financial capabilities. Potential sponsors have been participants in a series of four workshops on water project financing jointly sponsored by the Corps of Engineers and the Interstate Conference on Water Problems. Not only are sponsors desirous of moving ahead with development of new terms, but they, like we, have become aware of the great amount of expertise available to assist in obtaining new sources of capital on the most attractive terms possible.

OPERATION, MAINTENANCE, AND REHABILITATION

Expenditures for operation and maintenance of completed projects will continue to demand the largest share of budgetary resources, at least in FY 1986 and for the next few years. Starting in FY 1986, under the Army's legislative proposals, beneficiaries would pay a larger share of the cost of operation, maintenance, rehabilitation, and replacement. This would be done in four ways: (1) commercial users of the locks and dams and channels of the inland waterways system would be required to pay a uniform ton-mile fee which would cover about 70 percent of the annual operating and maintenance costs as well as new construction costs for the inland waterways; (2) local sponsors would be required to pay 70 percent of the annual costs for major deep-draft harbors with commercial traffic less than one million tons and for all shallow-draft navigation projects including the harbors on the inland waterways which, from a management standpoint, would no longer be considered part of the inland waterways system; (3) sponsors of deep-draft harbors and channels would pay the full cost of operation and maintenance but no more than 125 percent of the average cost per ton of traffic on or off loaded at the nation's ports; and (4) project sponsors would be responsible for the full cost of the operation, maintenance, rehabilitation, and replacement costs for all newly constructed non-navigation projects, including reservoirs. Non-Federal sponsors will be encouraged to recover their share of these costs through user fees or any other revenue-generating mechanism they desire, so as to promote the principle of "beneficiary pay" as encouraged by the President's Water Policy Letter.

In proposing that a cap be placed on the contribution required of local sponsors for deep-draft navigation projects, we are attempting to place a substantial amount of responsibility for these costs on project sponsors while not unnecessarily disrupting existing trade patterns or existing competitive relationships among ports. The Army's legislative proposal, by not relying upon a nationwide uniform fee, also responds to the concern of low-cost ports that they not be expected to subsidize their competitors. It also meets the requirement of our international treaties that fees for harbor and channel maintenance reflect actual costs.

The deep-draft cost recovery proposal would require that about $175 million of the $423 million programmed for deep draft navigation work in FY 1986 be contributed by port authorities. The balance or $248 million would continue to be appropriated by Congress. Of the $406 million required in FY 1986 for the operation, maintenance, rehabilitation, and replacement of the inland waterways including work funded under the Flood Control, Mississippi River and Tributaries account and shallow-draft harbors and channels, about $213 million would come from inland waterway user fees and shallow-draft project sponsor contributions. The balance of $193 million would be appropriated by Congress.

It should be noted that the levels of cost recovery proposed for navigation are substantially less than those first proposed by the Army. This represents a compromise between the sound economic principle that the beneficiaries of these commercial activities bear their costs and the desire for an implementable proposal. Let me further add that, while we have worked hard to develop proposals that are economically and politically sound, we are certainly open to other proposals that will provide for similar levels of non-Federal participation in the funding of the Federal Water Program.

FEASIBILITY STUDY COST SHARING

Two-Phase Process

The Department of the Army has adopted a two-phase planning process as a management device to insure that full preauthorization studies are completed only when there is a high likelihood that a recommendation for a Federal project will result. This process has been in place for the past two years; and, during FY 1985, we intend to complete the first phase, that is, the reconnaissance phase, of over 30 studies.

These reconnaissance investigations, funded at full Federal expense, define the problems, formulate and evaluate potential solutions, identify likely project sponsors, identify the Federal interest, and lay out the plan of study for the feasibility effort. If there is evidence of a Federal interest in a justified and implementable solution to the problem, the study would be continued with joint Federal and non-Federal funding on a 50/50 basis and with up to one-half the non-Federal share having potential for being in the form of in-kind contributions.

Implementation

Because the Appropriations Committees have indicated that we should not implement activities with increased non-Federal financing, we have not implemented study cost sharing. However, before proceeding with the second phase, that is, the feasibility phase, of the survey studies previously initiated under the two-phase process, we are asking the would-be project sponsor to agree to share in those study costs incurred after cost sharing is implemented by the Department. These contributions would be provided only if the sponsor continues to view the investigation as productive and wishes to continue it. In return for this conditional commitment on the part of the local sponsor, we are funding both the Federal and non-Federal shares of the study cost to provide for efficient execution of the study. In other words, we have implemented the management process for the two-phase study program as if cost sharing were actually in place. This "market test" of the value of continuing the study eliminates the requirement for internal departmental review of the results of the reconnaissance investigations with its inherent delays, except in cases where there is a question regarding Federal interest in the proposed project. Accordingly in FY 1985, we are funding the feasibility phase of studies at full Federal expense once a conditional contract is executed; however, the FY 1986 budget request of $8.6 million for continuing 47 of these studies is the Federal share, or one-half the total requirement. As of 31 January 1985, we have executed five Feasibility Study Cost Sharing Agreements with local sponsors and are proceeding with Federal funding of both the Federal and non-Federal shares of study costs to insure efficient study schedules pending implementation of study cost-sharing. This permits an orderly transition to the proposed Federal and non-Federal partnership arrangement in FY 1986. I should note here that the 50/50 feasibility phase cost-sharing arrangement on which the budget request is premised is compatible with study cost-sharing provisions of Senate Bill 1739 under consideration in the last session of Congress and since reintroduced in this session as Senate Bill 366.

Financial Ability

I have taken the time, Mr. Chairman, to review the two-phase planning process management because I know there have been questions raised about it.

One concern that I have not addressed is the ability of a sponsor to raise its share of the study funds. In response, I would like to point out that if the sponsor cannot finance a study, it is unlikely that it would be able to participate financially in project implementation. I see the Department's proposal for study cost sharing as an effective device for insuring that Corps studies lead to projects which are cost-effective, responsive to local concerns, and in every way implementable. It is our earnest desire to go forward with full implementation of the two-phase study process by implementing feasibility phase cost sharing. We were pleased to see that both the House and Senate versions of the omnibus bill last year endorsed study cost sharing. We appreciate this Committee's endorsement of our effort to increase the effectiveness of limited study funds.

REGULATORY REFORM

We continue to be very active in the area of regulatory reform, and the FY 1986 budget request of $51 million is slightly higher than that appropriated for the last two years. Last October, we published final regulations which implemented the agreed-to provisions of the lawsuit settlement with 16 environmental groups. Included as part of the settlement was the requirement for the public to provide notification to the Corps when activities are undertaken under certain nationwide permits. In addition, large fills above headwaters and in isolated waters no longer qualify for nationwide permit approval and must now have individual permits. These requirements provide additional environmental safeguards but do not hinder our overall goal of streamlining the regulatory program.

This spring, we hope to publish more rules. We are attempting to consolidate some of our previous regulations and include some additional procedures to reduce delays. We are also providing more guidance on the use of nationwide permits and an expansion of the overall nationwide permit program. This enables our limited personnel to focus on the most important environmental concerns. Under these nationwide permits, we are now authorizing tens of thousands of activities a year without the processing of individual applications. Later this year, we intend to issue some remaining regulations covering such items as enforcement and an improved permit form.

We have made significant improvements in our interaction with the States. This past year we transferred to the State of Michigan the Section 404 program outside traditionally navigable waters. Because of onerous regulations and procedures, a lack of resources, or applicable law, no State previously had been able to take advantage of this transfer provision of the Clean Water Act. We are also working with the States to modify our nationwide permits to meet their individual State requirements. Some States have expressed concerns over the nationwide permit program, but we have made important progress by improving the States' understanding of this program and by adding regional conditioning to many nationwide permits. We have also made significant progress in building on the permit programs of various State and local governments. In over 35 States, we have been able to issue "State program general permits" which eliminate duplication that existed where the Corps and a State or local government had similar permit programs for minor activities.

I am aware of this Committee's great concern about environmental protection. We will continue to have as a co-equal objective along with regulatory reform compliance with all applicable environmental safeguards as set out in laws and regulations. We believe, if done correctly, our regulatory reforms can produce gains in environmental protection.

OCEAN DISPOSAL

Perspective

Dredging is essential to the Nation's economic well-being and it is imperative that this activity be conducted in a fiscally responsible as well as environmentally acceptable manner. I am particularly concerned about the trend to require disposal of dredged material at great distances in the ocean, in the absence of scientific evidence suggesting that there are benefits commensurate with the costs of such efforts. These cost increases can be quite significant. For example, over $40 million additional would be required in deepening costs alone at Norfolk Harbor if an ocean disposal site only seven miles further out to sea were used in lieu of the historically used site. There are instances where it is proposed to move much farther out to sea than merely an additional seven miles. Unless there is a scientific or technical basis for doing so, we believe it is unwarranted to incur the added costs for disposal of dredged material further offshore. The Corps together with the EPA have agreed to base such decisions on scientific data and are working to improve their predictive techniques.

Field Verification Program

A cooperative field verification program between the Corps' New England Division, our Waterways Experiment Station and the EPA has been established to evaluate three different disposal alternatives. The Corps' Black Rock Harbor project at Bridgeport, Connecticut was selected because dredged material from a single maintenance dredging operation could be used to evaluate, independently and at the same time, the three basic alternatives of open water disposal, upland disposal and wetland creation. This field study will provide the first opportunity for direct comparison of the environmental consequences using the same dredged material under different disposal conditions. Test results from the field studies will be compared to laboratory predictions to verify the accuracy of predictive methods that both agencies feel should be used in evaluating disposal alternatives.

The EPA will be responsible for the determination of predictive methods for the following environmental parameters: bioaccumulation of contaminants by aquatic animals; the consequences of bioaccumulation in aquatic animals; and the effect of aquatic disposal on the aquatic community structures. At the same time, our Waterways Experiment Station will be responsible for the monitoring and correlation of predictive methods for evaluating the effects of upland disposal on water quality and the bioaccumulation of contaminants in upland and wetland plants and animals. This field verification program initiated in CY 1982 is scheduled to be completed in CY 1987. For your information, interim results are very promising and should shed new light on the assessment techniques and comparative risk assessments of land disposal as opposed to estuarine or aquatic disposal of contaminated dredged material. At this time, disposal on land and in the wetland environment appears to be more detrimental with regard to bioaccumulation of toxic substances than does the aquatic or open water disposal alternatives.

OTHER LEGISLATIVE ITEMS OF INTEREST

In addition to the cost-sharing legislative initiatives that I have mentioned earlier there are several other items in the legislation that we have forwarded for consideration by the 99th Congress. For one, we are seeking authorization of some 60 projects and activities having a total implementation cost of about $4 billion. In addition, we are seeking new authorities to expedite project implementation and management. I will touch on two of these briefly.

RECREATION USER FEES

We are proposing to eliminate the prohibition on the authority of the Corps of Engineers to impose fees to help offset the cost of operating and maintaining project recreation lands and facilities. The current fee program is limited to the collection of fees for specialized recreation services, primarily overnight camping. Current collections amount to about 10 percent of costs. The proposed legislation would allow an increase in the cost recovery to a more equitable level -- about 25 percent.

The Department of the Army, unlike other land managing agencies, is severely limited in the charges it may impose for admission to or use of recreation areas or facilities. With the expanded authority for collecting fees, we should be able to realize some $33 million for FY 1986. This represents an additional net increase in receipts of about $22 million over that estimated for collection in FY 1985. These amounts would, in turn, be available for appropriation to fund the outdoor recreation program of the Corps of Engineers, reducing the burden on the General Fund of the Treasury. Receipts from collected fees would be credited to the already established special recreation user fees account and remain available until expended.

HYDROPOWER

There are 243 Corps of Engineers dams without power plants at which additional power could be developed. Most hydropower projects can be planned, constructed, and operated by non-Federal interests under the FERC procedures. However, the Corps should be directly involved in planning, design, and construction of hydroelectric facilities at its dams whether the power is developed by the Corps or non-Federal interests. Such involvement would assure that hydropower development is compatible with authorized purposes of the Federal project and that the structural integrity of the project is maintained. The Corps' 68 power projects account for almost one-fourth of the Nation's and one-half of the Federal installed hydropower capacity, and generate approximately three percent of the Nation's total electrical power. These projects account for nearly one-third of Federal power of all kinds -- hydropower, fossil fuel, and nuclear. We have two legislative proposals to address development of hydropower facilities at Corps projects.

In those cases where non-Federal development of a hydropower potential at an existing Corps project may be impractical because of physical, legal, competing use, institutional, environmental or economic reasons, our first proposal would allow Federal development of hydropower with non-Federal interests financing the cost. In those cases where non-Federal development of hydropower at a Corps project is practical, our second proposal would provide for an arrangement which would be a good example of private-Federal partnerships to serve the best interest of the taxpayers by combining Federal expertise with non-Federal financing to accomplish sound hydropower development. In addition, where appropriate, joint construction of the power facility and the Corps project would be more efficient and cost effective, especially with regard to the power-on-line date.

CONCLUSION

Mr. Chairman, in reporting to you on the complex issues and accounting inherent in any budgetary presentation, I have no desire to shift the Committee's focus from the reality of the water problems facing our Nation and the need to improve the Nation's infrastructure in an efficient and timely way.

Your actions will have important and far reaching impacts on this Nation's well-being, and many citizens anxiously await revitalization of the Civil Works construction program. To be direct, we need your help. I am hopeful that your recommendations to the Budget Committee will support our proposed program including the non-Federal payments for studies, construction and operation and maintenance. We also look to this Committee to expedite its efforts to enact legislation that would make these budget recommendations a reality and at the same provide the necessary authorizations and generic cost sharing formulas that will encourage the orderly development of productive water projects to resume once more. Pending enactment of this vital legislation, we are seeking your assistance in requesting the Appropriations Committee to remove their objections to our implementing the cost sharing of feasibility-phase studies and for new construction projects, particularly where new cost sharing arrangements have been negotiated with local sponsors.

We all share the awareness of the deserving communities and individual citizens who are awaiting flood protection, harbor improvements, and other valuable services that can be provided by water projects. If something is not done soon to break the logjam, the history of the program for the last decade or so will be read as a testament to the inability of the Government to respond to new challenges in timely and responsible way. There can be revitalization in the water resources program in spite of the current Federal budget crisis. We all know that the budgeted new construction start proposals demonstrate that non-Federal interests are willing and able to contribute substantially more than they have in the past to receive the benefits of effective water resources development, and that there are ways to substantially increase the efficiency of program execution. There is no good reason remaining for delay.

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, DC 20310 -0103

8 MAR 1985

Honorable Robert T. Stafford
Chairman
Committee on Environment and Public Works
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This letter provides my responses to the fifteen questions received from the Committee's staff on March 1, 1985. The answers to the questions, in the order in which they were asked, are presented in the enclosure to this letter.

~~Sincerely,~~ Best Regards,

Bob Dawson

Robert K. Dawson
Acting Assistant Secretary of the Army
(Civil Works)

Enclosure

Responses of Robert K. Dawson,
Acting Assistant Secretary of the Army (Civil Works)
to Questions from Honorable Robert T. Stafford,
Chairman, Committee on Environment and Public Works
United States Senate

Question 1. Please provide us with a list of those projects on which construction work will be essentially completed during Fiscal Year 1985.

Answer. The following table provides this information.

PROJECTS FUNDED FOR COMPLETION DURING FISCAL YEAR 1985

Imperial Beach, CA
Cucamonga Creek, CA
McGee Creek Drainage and Levee District, IL
Coralville Lake, IA
Little Sioux River, IA (Deficiency Correction)
Waterloo, IA
El Dorado Lake, KS
Big Stone Lake and Whetstone River, MN and SD
Winona, MN
Grapevine Lake, TX (Major Rehabilitation)
Dworshak Dam and Reservoir, ID
Barbors Point Harbor, HI
Lockport Lock, Illinois River, IL (Major Rehabilitation)
Red River Emergency Bank Protection, LA, AR, OK, and TX
Ocean City Harbor and Inlet, MD (Major Rehabilitation)
Irondequoit Bay, NY
Emsworth Locks and Dams, Ohio River, PA (Major Rehabilitation)
Cooper River, Charleston Harbor, SC
Lake Washington Ship Canal, WA (Major Rehabilitation)

Question 4. Would you provide us with a list of the 29 new construction starts requested, together with the Fiscal Year 1986 request for Federal funds for each, the fiscal 1986 non-Federal funding on each project, as well as the total anticipated cost of each project, both for the Federal government and the non-Federal interests. Please provide a dollar value of the amount of the non-Federal contribution in each case that will be in lands, easements, and rights-of-way.

Answer. This information is presented in Table 2.

Question 5. The budget calls for new non-Federal cost sharing. Please provide us, as an example, with a copy of the draft cost sharing contract you have reached on the new flood control project start scheduled at Bassett Creek, Minnesota.

Answer. Draft cost sharing agreements were provided the project sponsors of those new construction starts recommended for implementation in FY 1983. However, no cost sharing contract has been entered into with any of the sponsors of the 29 recommended new construction starts; failure to appropriate the Federal share for implementing these projects has been the primary reason. Instead, we have on file a letter of intent from each of the project sponsors who voluntarily agreed to increasing their share of the construction costs. A copy of the letter from the City of Minneapolis, Minnesota, the sponsor for the Bassett Creek Flood Control project, is attached (after Tables).

Question 2. Please provide us with a list of those projects for which money is requested to essentially complete the project in Fiscal Year 1986.

Answer. The following table provides this information.

PROJECTS TO BE FUNDED FOR COMPLETION IN FISCAL YEAR 1986

John Day Lock and Dam, Lake Umatilla, OR and WA
Kaskaskia River Navigation, IL
Little Blue River Channel, MO
Locks and Dam 53, Ohio River, IL and KY (Major Rehabilitation)
Lytle and Warm Creeks, CA
Milan, Il
Mill Creek Lake, WA (Major Rehabilitation)
Point Place, OH
Red River Levees and Bank Stabilization Below Denison Dam, TX, AR, and LA
Santa Cruz Harbor, CA
Siuslaw River and Bar, OR
Tampa Harbor - Main Channel, FL
Wyoming Valley, PA (Deficiency Correction)

Question 3. Please provide us with a list of the projects that will be undertaken under the various small project authorities during Fiscal Year 1986?

Answer. The President's budget for FY 1986 anticipates that cost sharing will be enacted for specifically authorized projects and that such proposals will be applicable to the Continuing Authorities program, specifically to the DPS and construction work. Listed in Table 1 are those projects that could be undertaken in FY 1986; the phase of work being programmed is dependent upon the successful completion of work currently scheduled for accomplishment, as shown, in FY 1985. Please note that the costs shown for work scheduled in FY 1985 reflect the traditional cost sharing and financing for both Detailed Project Studies (DPS) and construction phases.

Question 6a. Please provide us with some details on the status of the proposed Oregon Inlet jetty project in North Carolina.

Answer. The House Report which accompanied the Fiscal Year 1984 Second Supplemental Appropriations Act indicated that no funds for construction of the Oregon Inlet project modification shall be expended until the necessary permits are obtained and the project is economically justified. The Corps has completed a reanalysis of the project's benefits and, in April 1984, submitted a report to the Assistant Secretary of the Army (Civil Works). In August 1984, the report was provided for information to the Chairman of the Subcommittee on Environmental Pollution and Water Resources. However, the Office Office of Management and Budget has raised several questions about the analysis, so it is unclear what the Administration's position would be if legislation were enacted to allow the Department of the Interior to issue the permits necessay to construct the jetties on DOI land. However, it is clear that enactment of our proposed legislation (S. 354) would require 70 percent non-Federal cost sharing for this project. The Corps is continuing engineering and design efforts with the $500,000 appropriated in Fiscal Year 1984, and has completed plans and specifications for the initial construction work. The Fiscal Year 1986 budget request only contains funds to maintain the existing project.

CORPS OF ENGINEERS - CIVIL WORKS PROGRAM

SUMMARY OF PROGRAM AMOUNTS FOR FISCAL YEARS 1984, 1985, AND 1986

($Million)

Account Title	FY 1984 3/ (Appropriations)	FY 1985 5/ (Appropriations)	FY 1986 Program Budget Request	FY 1986 Program Non-Fed. Contr. 6/	FY 1986 Program Total Funds
GENERAL APPROPRIATIONS					
General Investigations	135.810	138.0	119.0	8.0	127.0
Construction, General 1/	926.804	890.0	842.0	74.0	916.0
Operation & Maintenance, General	1,190.492	1,305.0	961.0	335.0	1,316.0
(Special Recreation Use Fees 2/)	(6.000)	(15.0)	(12.0)		(12.0)
Flood Control, Mississippi River & Tributaries	302.480	321.0	269.0	33.0	302.0
General Expenses	105.800	112.0	107.0	-	107.0
Flood Control & Coastal Emergencies	10.000	25.0	25.0	-	25.0
Revolving Fund	9.500	-	7.0	-	7.0
PERMANENT APPROPRIATIONS					
Special Activities	9.779	8.0	8.0	-	8.0
Subtotal, Federal Budget Authority	2,690.665	2,799.0	2,338.0	-	-
Contributed Funds (required)	39.174 4/	36.0 4/	-	470.0	470.0
TOTAL, ALL FUNDS	2,929.839	2,835.0	2,338.0	470.0	2,808.0

1/ Excludes $180M deferred in FY 1983 for use in FY 1984-1985.

2/ Included in Operation and Maintenance, General.

3/ Reflects transfer of funds from Construction, General ($4.8M) to General Investigations ($2.0M) and General Expenses ($2.8M). Includes Supplemental Appropriations.

4/ Required financing from existing Trust, the Rivers and Harbors Contributed Fund.

5/ Excludes effects of proposed Section 2901 (PL 98-369) rescissions and transfers for pay raises.

6/ Includes projected contributions from the Inland Waterways Trust Fund and an expanded Rivers and Harbors Contributed Fund as provided for in the President's proposed authorization bill.

ARMY CIVIL WORKS PROGRAM
FY 1983-1986 RECOMMENDED NEW CONSTRUCTION STARTS
($ IN MILLIONS)

R-11 February 1985
1004D -

PROJECT TYPE	NUMBER OF PROJECTS	FY 1986 BUDGET REQUEST	TOTAL CAPITAL COSTS 1/	FEDERAL COST-SHARE		LOCAL COST-SHARE	
				TRADITIONAL	PROPOSED 2/	TRADITIONAL	PROPOSED 2/
FLOOD CONTROL	17	26.44	553.89	427.72	350.03	126.17	203.86
COMMERCIAL PORTS	5	8.55	242.11	201.01	102.90	41.10	139.21
HYDROPOWER	3	0.9	148.80	148.80	2.7	0	146.10
MULTIPURPOSE	3	6.20	259.10	230.70	113.65	28.40	145.45
INLAND WATERWAYS	1	1.35	370.00	370.00	111.00	0	259.00
TOTAL	29	43.44	1,573.90	1,378.23	680.28	195.67	893.62

1/ Costs are at 1 October 1984 price levels and include allowances for inflation through the construction period.

2/ Shares under the Proposed columns are based on assumption that funds from project sponsors, including port authorities, and the users of the Inland Waterway system will be paid on a "pay-as-you-go schedule as called for under proposed legislation.

R-26 February 1985
1004D -

ARMY CIVIL WORKS PROGRAM
FY 1986 RECOMMENDED NEW CONSTRUCTION STARTS
($ IN MILLIONS)

PROJECT TYPE/NAME	FY 1986 BUDGET REQUEST	TOTAL CAPITAL COSTS 1/	FEDERAL COST-SHARE		LOCAL COST-SHARE	
			TRADITIONAL	PROPOSED	TRADITIONAL	PROPOSED
FLOOD CONTROL						
Ardsley, NY	0.48	5.67	4.77	3.68	0.90	1.99
Chaska, MN	1.60	28.70	23.80	18.60	4.90	10.10
Clear Creek, TX	2.00	119.35	94.80	77.58	24.55	41.77
* Fountain Creek at Pueblo, CO	1.36	9.10	7.70	5.83	1.40	3.27
* Lake Wichita, Holliday Creek at Wichita Falls, TX	1.50	30.50	17.80	16.40	12.70	14.10
Moline, IL	1.88	24.33	23.00	15.81	1.33	8.52
Revere Beach, MA	0.70	9.10	4.55	4.55	4.55	4.55
Tamaqua, PA	2.12	11.04	10.70	7.18	0.34	3.86
* Town Brook, Quincy, MA	1.50	36.10	35.60	23.50	0.50	12.60
SUBTOTAL	13.14	273.89	222.72	173.13	51.17	100.76
COMMERCIAL PORTS 2/						
Freeport Harbor, TX (Deepening)	2.00	75.92	66.60	33.92	9.32	42.00
Ponce Harbor, PR	0.35	10.24	9.66	4.83	0.58	5.41
* Sacramento Deep Water Ship Channel, CA	1.30	106.60	85.10	43.50	21.50	63.10
* Savannah Harbor Widening, GA	2.50	22.75	14.65	7.35	8.10	15.40
SUBTOTAL	6.15	215.51	176.01	89.60	39.50	125.91
HYDROPOWER						
Town Bluff Hydropower, TX	0	20.00	20.00	0	0	20.00
MULTIPURPOSE						
Little Dell Lake, UT	3.00	107.90	79.50	52.25	28.40	55.65
INLAND WATERWAYS 3/						
* Gallipolis Locks & Dam Replacement, OH & WV	1.35	370.00	370.00	111.00	0	259.00
TOTAL	23.64	987.30	868.23	425.98	119.07	561.32

1/ Costs are at 1 October 1984 price levels including inflation through the construction period.
2/ Data under Proposed columns are based on Army's proposed 50/50 cost-sharing.
3/ Data under Proposed columns are based on assumption that project is an increment to the existing Inland Waterway system and will be totally paid for by user fees under proposed legislation (30% Federal/70% non-Federal).
* Project requires authorization.

ARMY CIVIL WORKS PROGRAM
FY 1983/84/85 RECOMMENDED NEW CONSTRUCTION STARTS
($ IN MILLIONS)

R-8 February 1985
1004D -

FISCAL YEAR 83/84/85 1/	PROJECT TYPE/NAME 2/	FY 1986 BUDGET REQUEST	TOTAL CAPITAL COSTS 3/	FEDERAL FINANCING TRADITIONAL	FEDERAL FINANCING PROPOSED	LOCAL FINANCING TRADITIONAL	LOCAL FINANCING PROPOSED
	FLOOD CONTROL						
83	Kahoma Stream, HI	3.0	23.9	17.6	15.5	6.3	8.4
83	Merced, CA	4.0	111.0	83.5	72.2	27.5	38.8
83	Virginia Beach Streams, VA	1.0	6.0	4.9	3.9	1.1	2.1
84	Bassett Creek, CA	2.5	37.4	31.8	24.3	5.6	13.1
84	Ellicott Creek, NY	1.0	22.9	13.8	13.8	9.1	9.1
84	Fairfield Vic. Streams, CA	1.2	28.1	15.1	15.1	13.0	13.0
84	San Luis Rey, CA	1.4	45.0	35.5	29.3	9.5	15.7
85	Pajaro River, CA	0.5	5.7	2.8	2.8	2.9	2.9
	SUBTOTAL	13.3	280.0	205.0	176.9	75.0	103.1
	COMMERCIAL PORTS						
83	Freeport Harbor, TX (No. Jetty)	2.4	26.6	25.0	13.3	1.6	13.3
	HYDROPOWER						
83	Bonneville Power Units, OR & WA	0.5	21.8	21.8	0.5	0	21.3
83	Strube Lake, OR	0.4	107.0	107.0	2.2	0	104.8
	SUBTOTAL	0.9	128.8	128.8	2.7	0	126.1
	MULTIPURPOSE						
83	Randleman Lake, NC	2.7	134.0	134.0	58.3	0	75.7
85	Cowanesque Lake, PA	0.5	17.2	17.2	3.1	0	14.1
	SUBTOTAL	3.2	151.2	151.2	61.4	0	89.8
	TOTAL	21.1	586.6	510.0	254.3	76.6	332.3

1/ Projects designated FY 1983 were included in the FY 1983 new starts budget amendment submitted to Congress by the President on May 25, 1982.

2/ Two projects, Bradley Lake, AK and Bodega Bay, CA which were budgeted as new starts in prior years, do not appear on this list because local sponsors have elected to proceed with construction without Federal participation. In addition, Davenport, IA is not budgeted in FY 1986 due to lack of local support.

3/ 1 October 1984 prices inflated through the construction period.

Question 6b. How effective has the existing dredging program been in keeping the inlet open?

Answer. The ocean bar channel at the inlet is unprotected and subjected to waves and swells, which are particularly severe during the winter months. When storms sweep through the coastal area, shoals develop rapidly and reduce the channel dimensions just as rapidly. It is a continuing battle to maintain a marginally useable channel for existing traffic. For the past several years we have employed a small class contract hopper dredge in addition to our Corps sidecaster dredges in order to establish a channel 400 feet wide and 14 feet deep. We start this effort in the Fall and continue with the hopper dredge until the weather restricts the use of such a dredge.

For the last two winter fishing seasons, the Corps has been able to maintain a reasonably safe entrance channel, primarily because the weather was less severe than normal and because of an intensive dredging effort initiated early each fall. The cost has been high (about $4.5 million each year) and local fishing interests have been fortunate in that no severe storm occurred to prevent dredging or after the dredging season was over. In more normal weather years, the entrance could not have been kept open or conditions would have been much more hazardous. Jetties are the only solution to provide a reliable and safe entrance at Oregon Inlet.

Question 6c. How will the $5.289 million requested in the budget for fiscal 1986 be used?

Answer. We intend to continue to use a contract small class hopper dredge in the inlet and to supplement it with our own sidecasters as the situation dictates. The timing of initiation of work remains open as we continue to have serious reservations about the effectiveness of the work. The budget amount includes $2,200,000 for hopper dredging and $2,178,000 for sidecasting. It also includes $766,000 for pipeline dredging in the inner channels, and $145,000 for hydrographic surveys and reports, all in support of the aforementioned dredging activities. The budget amount should be sufficient to accomplish such work as may be determined to be warranted.

Question 7. Please list in order of size the ten most costly construction projects in the Fiscal Year 1986 Corps budget.

Answer. This information is provided in Table 3.

Question 8. How much money will be spent on contract dredging during Fiscal Year 1986, and how much will be spent on dredging by Government plant? How do those numbers and percentages compare with those in Fiscal Years 1985? In Fiscal Year 1976? Please provide separate information for shallow-draft navigation and deep draft navigation.

Answer. Amounts are not readily available by harbor depth for all years. However, Table 4 provides a breakdown by project type based on budget requests for the Fiscal Years 1985 and 1986 Operation and Maintenance, General, and MR&T Maintenance programs.

Question 9a. Please describe, in some detail, the out-year cost profile of dredging the Mississippi River ship channel from Baton Rouge to the Gulf.

Answer. Dredging on the lower Mississippi River is completely dependent on the river flow and stages. For instance, the highest level of dredging ever experienced on this project was in 1984 when nearly $37 million was spent for dredging. On the other hand, the lowest year of record, and these are in 1984 dollars, was in 1972 when only $8 million was spent for dredging. So each year is different and entirely dependent on the levels and duration of the river's stages and flow conditions. We try to budget for a theoretical average year and believe this is an appropriate approach. If conditions are worse than the average, consistent with the Congressional guidance on annual Operations and Maintenance, General, appropriations, we have diverted funds from other work on the lower river or from other projects, and in some cases, both. There are also some factors which can affect the average dredging requirements other than river flow. For instance, if bank protection and training works such as spur dikes are not in place, then we can expect increased silting to result and an increase in the base dredging load as well. Conversely, if we have sufficient funds to maintain and improve bank protection and training works, we could expect a decrease in dredging requirements as a result of the lower quantities of bank material entering the channel and the maintenance of higher velocities in the river itself.

Question 9b. How much has been requested for marsh stabilization?

Answer. The Fiscal Year 1986 budget request for bank nourishment (marsh stabilization) is $8.8 million.

Question 9c. What is the environmental impact of this stabilization work?

Answer. Construction and maintenance of the recommended project would not jeopardize the existence of any endangered and/or threatened species or critical habitat. The proposed disposal sites for the discharge of dredged material are specified as complying with the requirements of the Section 404 guidelines with the inclusion of appropriate and practical conditions to minimize pollution and adverse impacts on the affected aquatic ecosystem. A Water Quality Certificate from the State of Louisiana was obtained on August 9, 1984. Results of an analysis of wetland impacts, as required under Executive Order 11990, revealed that the creation of between 9,000 and 13,600 acres of marsh would be associated with maintenance of the recommended project. Results of an analysis of floodplain impacts, as required by Executive Order 11988, revealed that construction and maintenance of the recommended project would not significantly impact floodplain functions. The recommended project has been determined to be consistent with the Louisiana Coastal Resources Program. There is concern among some environmental interests that the project would increase wetland loss by restricting overbank flows. There is significant evidence, however, that subsidence, erosion, and land loss are occurring in the very areas which receive significant flows.

Question 9d. Has an environmental impact statement been filed on this marsh work? If not, why not?

Answer. The Environmental Impact Statement on the bank nourishment was included in the final Supplement No. 2 filed with the Environmental Protection Agency on 22 February 1985. We expect the Record of Decision to be signed by 1 May 1985.

Question 10. Please provide us with a 25-year table showing the Corps program by category, both in its annual dollar cost, as well as the costs in constant dollars.

Answer. The Corps does not have this information available for a 25-year period. However, Table 5 presents the requested information for the 20-year period from FY 1967 through FY 1986.

Question 11. I commend you on the work you have done to develop a cost sharing plan for general investigation studies. That fits right into line with the thinking of our Committee and the study resolutions already adopted by this Committee. Would you please provide us with a list of the studies on which there will be cost sharing during Fiscal Year 1986, and tell us what agreements you have reached with non-Federal interest.

Answer. The budget request for two-phase studies requiring cost sharing is $9,276,000 for 47 continuing studies and $710,000 for four new reconnaissance phase studies. Some of these items already have executed conditional contracts which we are seeking before the feasibility phase is initiated, some are scheduled to have conditional contracts negotiated in Fiscal Year 1985 or Fiscal Year 1986 and some will not have contracts negotiated until after Fiscal Year 1986. Table 6 shows all studies budgeted in Fiscal Year 1986 as well as some previously funded and their status. As can be seen from the table, as of 4 March 1985, we have executed six conditional contracts covering eight studies so far in Fiscal Year 1985 and hope to execute 25 more before the end of Fiscal Year 1985. While cost sharing has not actually been implemented, our FY 1986 Budget contemplates its implementation, and I would hope you would again support our going forward.

Question 12. Please provide us with information on the number of projects in the Corps backlog -- active projects that have not been initiated or are partially completed, and inactive and deferred projects. Please also provide the cost to complete the work on each grouping.

Answer. This information is provided in Table 7.

Question 13. Please provide us with information on the schedule for completing the work authorized on the Big South Fork project.

Answer. The scope of the Big South Fork National River and Recreation Area project is in accord with the authorized ceiling of $103,522,000. As of January 1, 1985, about 88% of the land had been acquired and the project was 69% complete. The project is scheduled to be completed in June 1988.

Question 14a. Please provide us with a report on expenditures for the Tug Fork project under current authorizations.

Answer. The estimated Federal cost of the Tug Fork project for construction of flood protection measures at Williamson, West Virginia, and Pineville and Barbourville, Kentucky, and implementation of certain nonstructural measures is $233 million. To date, $64.6 million has been allocated to the project. About $30.7 million has been expended through January 31, 1985.

Pursuant to the specific instructions set forth in law, we are continuing development of a project costing hundreds of millions of dollars and which never has met the requirements of economic justification. All of this work is being done at full Federal expense, unlike other local protection projects in the nation, whether under currently proposed cost sharing of 35 percent or under traditional cost sharing where Congress has recognized that at least lands, easements, and rights-of-way should be provided.

Question 14b. Please provide us with a report on expenditures for the Libby Dam project under current authorizations.

Answer. The Libby Dam project, including the installation of the fifth generating unit, has an estimated cost of $542,516,000. Through Fiscal Year 1984 $542,137,395 has been expended. The balance of project construction is scheduled for completion in Fiscal Year 1985.

Question 15.	Please provide us with information on the need for money, if any, to complete the safety work on Waterbury Dam, VT, together with the status of this activity.
Answer.	In Fiscal Year 1984, $300,000 was allocated to initiate engineering and design of the required corrective measures for Waterbury Dam. On October 10, 1984 an additional $300,000 was allocated to procure two cone valves for the outlet works modification; and on October 16, 1984, $175,000 was allocated to complete the engineering and design associated with the required work. On December 14, 1984, $650,000 was allocated to award the dam outlet modification contract. The toe modification, which is the last contract, is scheduled to begin in April 1985 with available funds. Work on the toe modification and the entire project is scheduled to be completed in November 1985.

TABLE 1

ACTUAL AND PENDING ALLOCATION FOR SMALL PROJECTS PROGRAMS
(Funds Shown in $1,000)

	Fiscal Year	
Program/Category/Item	1985	1986
NAVIGATION (Section 107)		
Initial Appraisals	230	100
Reconnaissance Studies	960	500
Detailed Project Studies		
Port of Florence, AL	120	50
Decatur., Morgan County Port, AL	120	60
St. George Island, AK	44	
Chignik, AK	252	
Sand Point, AK	244	
Whittier, AK	249	
Little Rock Port, AR	130	
Larkspur Ferry, CA	200	
Mispillion River, Conch, DE	118	
Valona, Harbor Co., GA	30	27
Kahului, SBH, HI	130	
Wailoa River Harbor, HI	125	
Laupahoehoe Harbor, HI	135	
Honouliwai, Molakau, HI	100	
Wood Island Harbor, ME	78	
Pine Pt. Harbor, ME	60	
Perkins Cove, ME	45	
Gloucester Harbor, MA	50	
Green Harbor, MA	70	
Saugus River, MA	40	
Scituate Harbor, MA	57	
Pine River, MA	20	
Greenwood Port, MS	145	
Buffalo, SBH, Buffalo, NY	130	
White Oak River, Onslow Co., NC	58	
Lorain SBH, Lorain Co., OH	90	
Huron Harbor, Huron, OH	28	
Kahana Bay, Oahu	90	
Aquadilla Harbor, PR	60	
Benner Bay - Mangrove Lagoon, VI	35	
Kings Creek, Cape Charles, VA	80	
Bennett Creek, Suffolk, VA	10	
Hull Creek, VA	50	
Jordan Bridge, Chesapeake, VA	65	
Gooseberry Point, Hale Passage, WA	35	
Sandy Point Harbor, Whatcom Co., WA	40	
Kalama Turning Basin, WA	13	
SUBTOTAL DPS	3,346	137

ACTUAL AND PENDING ALLOCATION FOR SMALL PROJECTS PROGRAMS
(Funds Shown in $1,000)

	Fiscal Year	
Program/Category/Item	1985	1986
NAVIGATION (SECTION 107) Cont'd)		
Plans and Specifications		
Mekoryuk, AK	50	
Seward, AK	20	
Juneau Harbor, AK	180	
Saxmon, AK	100	
Agat Harbor, Guam	15	
Bellville Point, GA	68	
Bastrop Port, LA	50	
Bayou Grand Caillou, LA	288	
Zipple Bay, MN	34	
Lower Thorofare, Somerset Co. Md	60	
Rockport, MA	70	
Sheepshead Bay, NY	25	
Lorain Harbor, OH	90	
Edgewater Marina, Cleveland, OH	60	
Bayfield Harbor, WI	50	
Projects not fully identified		300
Subtotal P&S	1,160	300
Construction		
Saxmon, AK		549
Seward, AK		500
Mekoryuk, AK		347
Bellville PT, GA		198
AIWW, Brunswick, GA	15	
Agat Harbor, Guam		400
Bastrop Port, LA		810
Bayou Grand Caillou, LA		500
SBH, Burns Waterway, IN	540	
Ogdensburg HBR, NY	170	
Sheepshead Bay, NY		102
Rudee Inlet, VA		339 1/
Columbia River, Ilwaco, WA	1,350	
Subtotal Construction	2,075	3,745
Contingencies	3,420	68
Total Program (Section 107)	11,191	4,850

1/ Project annual O&M exceeds capital investment cost. Proposal made to local sponsor would allow project to proceed but limit future Federal financial commitment.

ACTUAL AND PENDING ALLOCATION FOR SMALL PROJECTS PROGRAMS
(Funds Shown in $1,000)

Program/Category/Item	Fiscal Year 1985	Fiscal Year 1986
MITIGATION FOR NAVIGATION PROJECTS (Section 111)		
Initial Appraisals	40	0
Reconnaissance Studies	60	0
Detailed Project Studies		
Charleston Harbor, SC	90	0
Herring Creek, Tall Timbers, MD	70	
Subtotal DPR	160	0
Plans and Specifications		
Subtotal	0	0
Construction	0	0
Subtotal Construction	0	0
Contingencies	115	0
Total Program (Section 111)	375	0

ACTUAL AND PENDING ALLOCATION FOR SMALL PROJECTS PROGRAMS
(Funds Shown in $1,000)

	Fiscal Year	
Program/Category/Item	1985	1986
BEACH EROSION (Section 103)		
Initial Appraisals	22	50
Reconnaissance Studies	54	200
Detailed Project Studies		
Emeryville, Alameda, CA	50	
West Haven Beaches, CT	30	
Town Beach, Old Saybrook, CT	65	
South Shore, Indian River Inlet, DE	35	
South Shore, Indian River Inlet, DE	35	
Sea Gull Beach, MA	100	
Orchard Beach, Bronx, NY	110	
Century Park, Lorain, OH	35	
Makaha Beach Park, Oahu	100	
Conimicut Pt. Beach, Warwick, RI	70	60
Lepua Area, Samoa	50	
Lincoln Park Beach, Seattle, WA	94	
Subtotal DPS	774	60
Plans and Specifications		
Key Biscayne, FL	78	75
Sand Island Shore, HI	40	70
Subtotal	118	145
Construction		
Key Biscayne, FL	300	425
Sand Island Shore, HI		355
Greenwood Beach, Evanston, IL	5	
Pasaode Susana, Guam		550
Colonial Beach, VA	15	
Projects not fully identified		300
Subtotal Construction	320	1,630
Contingencies	10	65
Total Program (Section 103)	1,298	2,150

ACTUAL AND PENDING ALLOCATION FOR SMALL PROJECTS PROGRAMS
(Funds Shown in $1,000)

	Fiscal Year	
Program/Category/Item	1985	1986
FLOOD CONTROL (Section 205)		
Initial Appraisals	345	400
Reconnaissance Studies	2,675	1,100
Detailed Project Studies		
Murder Creek, Brewton, AL	50	
Cribbs Mill Creek, Tuscaloosa, AL	12	
Laconia Circle, AR	130	
Fourteen Mile Slough, Stockton, CA	130	
Mission Zanja, Redlands, CA	300	
Mad River, Waterbury, CT	100	
Means Brook, Shelton, CT	75	
Wepawaug River, Milford, CT	55	
Industrial Area, Waterbury, CT	100	
West River, New Haven, CT	30	
Whitaker Bayou, Sarsota, FL	100	
Seminole Basin, Largo, FL	50	
Alligator Creek Basin, Clearwater, FL	20	
Placentia Canal, Savannah, GA	60	
Silver Creek, Rome, GA	44	
Federal Prison Creek, Atlanta, GA	10	
Honaunau Area, Kona, HI	130	
Salmon River, Salmon, ID	65	
East Cape Girardeau Main Ditch, IL	82	
Lake Susupe, Saipan, Mariana Islands	25	
Lincoln Draw, Hays, KS	138	
Rossville, KS	125	
Housatonic River, Lee, MA	65	
Ontonogan, MI	135	
Minnesota River, Henderson, MN	55	
Greens Creek, Petal, MS	65	
English Coulee, Grand Forks, ND	100	
Ramapo River, Monroe, NY	111	
East Canada Creek, Dolgeville, NY	130	
Cazenovia Creek, Buffalo, NY	130	
Conklin & Kirkwood, NY	20	
Delaware River, Port Jervis, NY	310	
Great Coharie Creek, Sampson Co., NC	15	

ACTUAL AND PENDING ALLOCATION FOR SMALL PROJECTS PROGRAMS
(Funds Shown in $1,000)

	Fiscal Year	
Program/Category/Item	1985	1986
FLOOD CONTROL (Section 205) Cont'd		
Detailed Project Studies Cont'd		
Crab Tree Creek & Tributaries, Wake, Co., NC	140	
Lower Heart River at Mandan, ND	150	
Elizabeth River, Hillside, NJ	50	
Kahawainui Stream, Oahu	135	
Little Beaver Creek, Kettering, OH	40	
Maumee River, Defiance, OH	140	
Libby Dike, Coal Bank Slough, Coos Bay, OR	168	
Youngs River Dike No. 22, Clatsop Co., OR	100	
Tucker CR. & Battle Cr. Dike Areas, Youngs R., OR	42	
Merkle Creek, Norman, OK	140	
Allegheny River, Oil City, PA	50	
Poquessing Creek, Bucks CO., PA	13	
Rio Cibuco, Vega Baja, PR	33	
Naguabo River, PR	105	
Garapan Area, Saipan	50	
Garapan Area, Saipan	12	
Springfield Canal, Savannah	100	
Socastee Creek, Horry Co., SC	50	
Brushy Creek, Greenville, SC	8	
Goose Creek, Berkeley CO., SC	40	
Browns Creek, Nashville, TN	80	
Little Harpeth River, Brentwood, TN	28	
Dry Creek, Goodlettsville, TN	30	
Burton Creek, Bryan, TX	70	
Lorean Branch, Hurst, TX	40	
Walnut Creek, Sequin, TX	40	
Elm Fork, Gainesville, TX	135	
Hickory Creek, Balch Springs, TX	21	
Pecan Creek, Gainesville, TX	60	
Danville, VA	15	
Estate Mon Bijou, St. Croix, VI	10	
Missiquoi River, Richford, VT	61	
Missiquoi River, Richford, VT	30	
Elwga Klallam Reservation, Elwha River, WA	60	
Bowman Hilton Mobile Home Park, WA	40	
Elwha Klallam Reservation, Elwha River, WA	38	
Hughes Creek, Hugheston, WV	90	
Projects Not yet fully identified		2,100
Subtotal DPS	5,381	2,100

Program/Category/Item	Fiscal Year 1985	Fiscal Year 1986
Flood Control (Section 205) Cont'd		
Plans and Specifications		
W Magnesia Canyon Channel, Rancho Mirage, CA	180	
Telegraph Canyon, San Diego CO., CA	135	
Los Coches Creek, CA	270	
South Fork, Santa Clara River, CA	60	
Quinnipiac River, Wallingford, CT	100	
Mill Creek, Dalton, GA	20	
Canoe Creek, Henderson, KY	10	
East Branch Housatonic River, Pittsfield, MA	50	
Leaf & Bowie Rivers, Hattiesburg, MS	50	
Paw Paw Lake, MI	100	
Scuppernong River, NC	28	
Baker Brook, Fitchburg, NH	50	
Passaic River Basin, NJ & NY	37	
Oneida Creek, NY	125	
Beaver Brook, Keene, NH	110	
Upper Scioto River, Marion County, OH	10	
Sabana Grande, PR	164	
West Little Pine Creek, Etna, PA	250	
Blackstone River, Cumberland, RI	140	
Mill Creek, Wimpole Drive, TN	60	
Kirbyville, TX	75	
Calloway Branch, Hurst, TX	30	
Stuart, VA	115	
Projects not fully identified		1,000
Subtotal P&S	2,169	1,000
Construction		
Little Red River, Clinton, AR	1,060	
Los Coches Creek, San Diego Co., CA	1,500	1,945
South Fork, Santa Clara River, CA		2,400
Telegraph Canyon Creek, San Diego Co., CA	1,500	1,740
West Magnesia Canyon, Riverside Co., CA	1,500	1,790
Quinnipian River, Wallingford, CT		1,100
Mill Creek, Dalton, GA	485	
Sope Creek, GA	1,110	
Waimea River, Kauai, HI	330	
Canoe Creek, Henderson, KY		560
Paw Paw Lake, MI		1,800
Halstad, MN	513	
Hattiesburg, Leaf & Bowie Rivers, MS	1,000	1,600
Lead Bayou, Bolivar CO., MS	200	
Devils Lake, ND	343	
Ararat River, NC	2,000	
Beaver Brook, Keene, NH		2,000
Euclid Creek, OH	190	
Sabana Grande, Rio Guanagibo, PR	1,800	1,650

Program/Category/Item	Fiscal Year 1985	Fiscal Year 1986
Flood Control (Section 205) Cont'd		
Construction Cont'd		
Pawtuxet River, Warwick, RI	1,375	
West Little Pine, ETNA, PA		300
Eagle Creek, SC	86	
Humbuldt, Lick Creek, TN	500	765
Calloway Branch, Hurst, TX	700	430
Stuart, VA	400	1,030
Scottsville, James River, VA	500	2,080
Subtotal Construction	17,092	21,190
Contingencies	108	1,810
TOTAL PROGRAM (Section 205)	27,700	27,600

ACTUAL AND PENDING ALLOCATION FOR SMALL PROJECTS PROGRAMS
(Funds Shown in $1,000)

Program/Category/Item	Fiscal Year 1985	Fiscal Year 1986
SNAGGING AND CLEARING (Section 208)		
Initial Appraisals	40	60
Reconnaissance Studies	200	300
Detailed Project Studies		
Plans and Specifications		
Konkapot River, North Canaan, CT	20	
Salamonie River, Montpelier, IN	9	
Projects not yet fully identified		100
Subtotal	29	100
Construction		
Konkapot river, North Canaan, CT		95
Rapid Creek, ID	45	
Salamonie River, Montpelier, IN		121
Maple River, MI	25	
Wolf Creek, Lawrence, OH	32	
Blanchard River, Ottawa, OH	192	
Projects not yet fully identified		500
Subtotal Construction	294	716
Contingencies	37	24
TOTAL PROGRAM (Section 208)	600	1,200

ACTUAL AND PENDING ALLOCATION FOR SMALL PROJECTS PROGRAMS
(Funds Shown in $1,000)

Program/Category/Item	Fiscal Year 1985	Fiscal Year 1986
EMERGENCY STREAMBANK AND SHORELINE PROTECTION (Section 14)		
Initial Appraisals	500	800
Plans and Specifications		
Santa Ana River, Colton, CA	85	
Ft. Trumbull Beach, Milford, CT	33	
South Plate River, Bridge 32 1/2-218, Platteville, CO	16	
Cache LA Poudre River, Bridge 27-62B, Windsor, CO	21	
Big Thompson River, Johnstown, CO	14	
So. Platte River, Kersey, CO	22	
South Platte River, Merino, CO	15	
South Platte River, Iliff, CO	25	
Ohio River, Ft Massac State Park. IL	20	
Des Moines River, Boone, IA	11	
Des Moines River, Eldon, IO	10	
Elk Creek, Near Jackson, NB	16	
Minnesota River, LeSueur, NM	30	
Wild Rice River, Mahnomen County, MN	12	
Yellowtone River, Glendive, MT	28	
Papillion, NE	19	
Platte River, Brady, NE	21	
Little Blue River, Gilead, NE	17	
Big Nemaha River Dubois Bridge, NE	20	
Salt Creek, Lincoln, NE	18	
Little Stilwater Creek, Uhrichsville, OH	12	
St. Hwy 5 Bridge, Elmer, OK	12	
West Makinster Road, Wilson River, OR	46	
Clear River, Burrillville, RI	35	
Vermillion River, Vermillion, SD	22	
Cumberland River, Mile 187, Nashville, TN	25	
Barkers Island, WE	41	
Little Kanawha River, Glenville	13	
Projects Not Yet Fully Identified	___	1,100
Subtotal	659	1,100
CONSTRUCTION		
St. Hwy 90, St. Francis River, AR	126	
Sam Francisquito Creek, Site 74, Menlo Park, CA	225	
Willow CO., Water Dist. Wells, Mendocino Co., CA	120	

Program/Category/Item	Fiscal Year	
	1985	1986
EMERGENCY STREAMBANK AND SHORELINE PROTECTION (Sec 14) Cont'd		
Construction Cont'd		
Sam Francisquito Creek, Site 74, Menlo Park, CA	25	
Asquiroqa Bay, GU	220	
Elkhart River, Elkhart, IN	203	
Sewage Lagoons, Quenemo, KS	24	
Manistee, MI	185	
McKenzie Creek, Piedmont, MO	55	
Knox County Rd 90, MO	30	
W. Fork Grand River, Isadora, MO	53	
Bonnes Coulee, Velva, ND	40	
WWTP Snyder, NE	36	
Fike Bridge, Little Blue River, NE	63	
Sewage Lagoons, Elk Creek, NE	88	
Lipovsky Bridge, Little Blue River, NE	21	
Spring Ranch Bridge, Clay Co., NE	10	
Pawnee Ranch Bridge, Clay Co., NE	17	
Big Nemaha River, Richardson, CO., NE	20	
Rogers Cemetery, Genesee River, Amity, NY	80	
Mahoning River, Hwy 139A, Trumbull CO., OH	119	
Sandy Creek, Jackson, TN	42	
Cumberland River, Mile 187, Nashville, TN	202	
Nooksack River, Acme, WA	116	
Village of Saxtons River, VT	13	
Projects not fully identified	2,000	5,000
Subtotal Construction	4,133	5,000
Contingencies	136	300
TOTAL PROGRAM (Section 14)	5,428	7,200

TABLE 4
GOVERNMENT AND CONTRACT NAVIGATION DREDGING

Project Type	Funding Requirements for Dredging					
	FY 1976		FY 1985		FY 1986	
	($Mil)	(%)	($Mil)	(%)	($Mil)	(%)
Channels and Harbors - Deep Draft						
Government Plant			38.5	13.1	49.8	17.6
Contract			256.3	86.9	233.4	82.4
Sub-Total	*	*	294.8	100.0	283.2	100.0
Channels and Harbors - Shallow Draft						
Government Plant			5.9	19.2	6.1	26.0
Contract			24.8	80.8	17.4	74.0
Sub-Total	*	*	30.7	100.0	23.5	100.0
Locks and Dams						
Government Plant			32.6	32.3	24.6	27.3
Contract			68.3	67.7	65.4	72.7
Sub-Total	*	*	100.9	100.0	90.0	100.0
Flood Control						
Government Plant			0	0	0	0
Contract			0.	0	1.4	100.0
Sub-Total	*	*	0	0	1.4	100.0
Total Maintenance Dredging						
Government Plant	87	50.3	77.0	18.1	80.5	20.2
Contract	86	49.7	349.4	81.9	317.6	79.8
TOTAL	173	100.0	426.4	100.0	398.1	100.8

*Corps records for Fiscal Year 1976 do not include a breakdown of dredging costs by project type.

TABLE 5

CORPS OF ENGINEERS APPROPRIATIONS
FY 1967 THROUGH FY 1986
(Dollars in Millions)

ALL APPROPRIATIONS

Fiscal Year	Actual Appropriation	Value in July 1965 Dollars
1967	1,293	1,293
1968	1,305	1,249
1969	1,246	1,124
1970	1,157	955
1971	1,310	1,002
1972	1,589	1,097
1973	1,952	1,190
1974	1,770	1,031
1975	1,757	927
1976	2,184 1/	1,074
1977	2,487	1,091
1978	2,784	1,148
1979	2,790	1,096
1980	3,263	1,185
1981	3,100	1,044
1982	3,002	946
1983	3,421	977
1984	2,691	730
1985	2,799 (Estimate)	721
1986	2,338 (Budget)	592

1/ Without TQ (transition quarter)

CORPS OF ENGINEERS APPROPRIATIONS
FY 1967 THROUGH FY 1986
(Dollars in Thousands)

GENERAL INVESTIGATIONS

Fiscal Year	Actual Appropriation	Value in July 1965 Dollars
1967	32,450	32,450
1968	34,445	31,332
1969	30,015	25,147
1970	41,191	31,183
1971	39,023	27,895
1972	50,714	33,116
1973	57,805	34,707
1974	56,142	32,180
1975	65,284	34,926
1976	66,836 1/	34,490
1977	71,920	32,227
1978	107,046	46,906
1979	137,978	56,296
1980	142,145	53,391
1981	134,013	46,659
1982	137,225	44,422
1983	139,062	40,811
1984	135,810 2/	38,337
1985	138,000 (Estimate)	36,940
1986	119,000 (Budget)	33,357

1/ Without TQ (transition quarter)
TQ = 17,110 = 8,829 (1965 Dollars)

2/ Reflects proposed transfer of $+2 million

CORPS OF ENGINEERS APPROPRIATIONS
FY 1967 THROUGH FY 1986
(Dollars in Thousands)

CONSTRUCTION, GENERAL*

Fiscal Year	Actual Appropriation	Value in July 1965 Dollars
1967	965,955	965,955
1968	967,599	921,523
1969	862,714	778,454
1970	711,992	587,058
1971	851,178	650,494
1972	1,025,084	703,844
1973	1,203,943	727,002
1974	873,589	503,399
1975	966,338	502,248
1976	1,237,151 1/	600,460
1977	1,430,195	618,436
1978	1,537,820	620,945
1979	1,343,711	507,796
1980	1,659,752	584,529
1981	1,593,892	516,469
1982	1,429,992	432,586
1983	1,508,405 2/	413,028
1984	926,804	242,169
1985	890,000 (Estimate)	218,969
1986	842,000 (Budget)	208,954

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* Excludes FC MR&T

1/ Without TQ
TQ = 412,741 = 200,327 (1965 Dollars)

2/ Includes $180 million deferred in FY 1983 for use in FY 1984, and $85 million Jobs Act Funds appropriated in FY 1983.

TABLE 2
ARMY CIVIL WORKS PROGRAM
FY 1986 RECOMMENDED NEW CONSTRUCTION STARTS
($ IN MILLIONS)

7 March 1985
1049D -

PROJECT TYPE/NAME	FY 1986 FUNDING FEDERAL	FY 1986 FUNDING LOCAL	TOTAL CAPITAL COSTS 1/	FEDERAL COST-SHARE TRADITIONAL	FEDERAL COST-SHARE PROPOSED	LOCAL COST-SHARE TRADITIONAL	LOCAL COST-SHARE PROPOSED	LOCAL LERR 3/
FLOOD CONTROL								
Ardsley, NY	0.48	0.30	5.67	4.77	3.68	0.90	1.99	0.90
Chaska, MN	1.60	0.35	28.70	23.80	18.60	4.90	10.10	4.80
Clear Creek, TX	2.00	1.72	119.35	94.80	77.58	24.55	41.77	23.90
* Fountain Creek at Pueblo, CO	1.36	0	9.10	7.70	5.83	1.40	3.27	1.10
* Lake Wichita, Holliday Creek at Wichita Falls, TX	1.50	0	30.50	17.80	16.40	12.70	14.10	8.50
Moline, IL	1.88	0.02	24.33	23.00	15.81	1.33	8.52	1.33
Revere Beach, MA	0.70	1.20	9.10	4.55	4.55	4.55	4.55	0
Tamaqua, PA	2.12	0	11.04	10.70	7.18	0.34	3.86	0.34
* Town Brook, Quincy, MA	1.50	0.35	36.10	35.60	23.50	0.50	12.60	0.24
SUBTOTAL	13.14	3.94	273.89	222.72	173.13	51.17	100.76	41.11
COMMERCIAL PORTS								
Freeport Harbor, TX (Deepening)	2.00	2.00	75.92	66.60	33.92	9.32	42.00	5.80
Ponce Harbor, PR	0.35	2.11	10.24	9.66	4.83	0.58	5.41	0
* Sacramento Deep Water Ship Channel, CA	1.30	0.20	106.60	85.10	43.50	21.50	63.10	8.90
* Savannah Harbor Widening, GA	2.50	2.55	22.75	14.65	7.35	8.10	15.40	8.10
SUBTOTAL	6.15	6.86	215.51	176.01	89.60	39.50	125.91	22.80
HYDROPOWER								
Town Bluff Hydropower, TX	0	3.24	20.00	20.00	0	0	20.00	0
MULTIPURPOSE								
Little Dell Lake, UT	3.00	5.50	107.90	79.50	52.25	28.40	55.65	3.90
INLAND WATERWAYS 2/								
* Gallipolis Locks & Dam Replacement, OH & WV	1.35	3.15	370.00	370.00	111.00	0	259.00	0
TOTAL	23.64	22.69	987.30	868.23	425.98	119.07	561.32	67.81

1/ Costs are at 1 October 1984 price levels including inflation through the construction period.
2/ Data under Proposed columns are based on assumption that project is an increment to the existing Inland Waterway system and will be totally paid for by user fees under proposed legislation (30% Federal/70% non-Federal).
3/ LERR = lands, easements, rights-of-way, and relocations.
* Project requires authorization.

ARMY CIVIL WORKS PROGRAM
FY 1983/84/85 RECOMMENDED NEW CONSTRUCTION STARTS
($ IN MILLIONS)

7 March 1985
1049D -

FISCAL YEAR 83/84/85 1/	PROJECT TYPE/NAME 2/	FY 1986 FUNDING		TOTAL CAPITAL COSTS 1/	FEDERAL COST-SHARE		LOCAL COST-SHARE		LOCAL LERR 4/
		FEDERAL	LOCAL		TRADITIONAL	PROPOSED	TRADITIONAL	PROPOSED	
	FLOOD CONTROL								
83	Kahoma Stream, HI	3.0	0.4	23.9	17.6	15.5	6.3	8.4	6.0
83	Merced, CA	4.0	0	111.0	83.5	72.2	27.5	38.8	27.1
83	Virginia Beach Streams, VA	1.0	0.7	6.0	4.9	3.9	1.1	2.1	1.1
84	Bassett Creek, MN	2.5	0	37.4	31.8	24.3	5.6	13.1	5.6
84	Ellicott Creek, NY	1.0	0	22.9	13.8	13.8	9.1	9.1	8.6
84	Fairfield Vic. Streams, CA	1.2	0	28.1	15.1	15.1	13.0	13.0	12.7
84	San Luis Rey, CA	1.4	0.3	45.0	35.5	29.3	9.5	15.7	5.5
85	Pajaro River, CA	0.5	0	5.7	2.8	2.8	2.9	2.9	2.9
	SUBTOTAL	13.3	1.4	280.0	205.0	176.9	75.0	103.1	69.5
	COMMERCIAL PORTS								
83	Freeport Harbor, TX (No. Jetty)	2.4	1.1	26.6	25.0	13.3	1.6	13.3	1.5
	HYDROPOWER								
83	Bonneville Power Units, OR & WA	0.5	0	21.8	21.8	0.5	0	21.3	0
83	Strube Lake, OR	0.4	0	107.0	107.0	2.2	0	104.8	0
	SUBTOTAL	0.9	0	128.8	128.8	2.7	0	126.1	0
	MULTIPURPOSE								
83	Randleman Lake, NC	2.7	0	134.0	134.0	58.3	0	75.7	0
85	Cowanesque Lake, PA	0.5	4.7	17.2	17.2	3.1	0	14.1	0
	SUBTOTAL	3.2	4.7	151.2	151.2	61.4	0	89.8	0
	TOTAL	21.1	7.2	586.6	510.0	254.3	76.6	332.3	71.0

1/ Projects designated FY 1983 were included in the FY 1983 new starts budget amendment submitted to Congress by the President on May 25, 1982.

2/ Two projects, Bradley Lake, AK and Bodega Bay, CA which were budgeted as new starts in prior years, do not appear on this list because local sponsors have elected to proceed with construction without Federal participation. In addition, Davenport, IA is not budgeted in FY 1986 due to lack of local support.

3/ 1 October 1984 prices inflated through the construction period.

4/ LERR = lands, easements, rights-of-way, and relocations.

1790E

TABLE 3
TEN MOST COSTLY CONSTRUCTION PROJECTS IN THE FISCAL YEAR 1986 CORPS BUDGET
($000)

Project	Total Corps Appropriation Requirement	FY 1986 Budget Request	Scheduled Balance To Complete After FY 1986	Unscheduled Balance To Complete After FY 1986
Red River Waterway, Mississippi River to Shreveport, LA	$1,517,000	90,000	69,200	735,522
Central and Southern Florida, FL	829,000	13,000	147,244	381,700
Lock and Dam 26, Mississippi River, IL and MO	753,000	75,500	342,387	0
Bonneville Second Powerhouse, OR and WA	646,000	7,300	11,954	0
Lake Pontchartrain and Vicinity, (Hurricane Protection)	619,000	25,000	27,619	2,533
McClellan-Kerr Arkansas River Navigation System, AR and OK	548,428	1,000	0	7,662
Harry S. Truman Dam and Reservoir, MO	544,000	5,700	10,382	8,228
Richard B. Russell Dam and Lake, GA and SC	535,000	23,000	94,510	0
John Day Lock and Dam, Lake Umatilla, OR and WA	511,000	6,358	0	0
Mississippi River-Gulf Outlet, LA	489,000	7,200	17,800	383,260

CORPS OF ENGINEERS APPROPRIATIONS
FY 1967 THROUGH FY 1986
(Dollars in Thousands)

OPERATIONS AND MAINTENANCE, GENERAL

Fiscal Year	Actual Appropriation	Value in July 1965 Dollars
1967	178,900	178,900
1968	193,00	190,532
1969	227,300	208,611
1970	261,824.9	222,986
1971	301,830.5	235,031
1972	388,519	274,604
1973	407,100	258,420
1974	426,625	258,822
1975	494,577	267,804
1976	582,073 1/	291,050
1977	567,600	300,217
1978	768,870	328,051
1979	833,100	343,600
1980	941,580	356,690
1981	967,905	342,250
1982	1,025,335	335,102
1983	1,201,367 2/	352,129
1984	1,184,492	326,964
1985	1,305,000 (Estimate) 3/	341,479
1986	1,316,000 (Budget)4/	323,617

1/ Without TQ (TQ = $153,116 = 76,562 in 1965 Dollars)

2/ Includes $164 million appropriated under Jobs Act

3/ Starting with FY 1985 this appropriation will include Special Recreation Use Fees, major rehabilitation initiated in FY 1985, and subsequently, recreation at completed projects.

4/ Reflects total program proposed of which $160 million will come from the Inland Waterways Trust Fund and $195 million from the Rivers and Harbors contributed fund under proposed legislation. Under existing law $961 million will be provided by the O&M ,General appropriation.

CORPS OF ENGINEERS APPROPRIATIONS
FY 1967 THROUGH FY 1986
(Dollars in Thousands)

GENERAL EXPENSES

Fiscal Year	Actual Appropriation	Value in July 1965 Dollars
1967	18,014	18,014
1968	19,515	18,586
1969	21,875	18,237
1970	25,356.6	19,483
1971	27,586.4	19,656
1972	29,723	19,982
1973	32,183	20,181
1974	35,083	21,903
1975	40,100	23,912
1976	43,700 1/	23,435
1977	49,050	24,501
1978	60,000	28,494
1979	68,900	30,838
1980	76,800	31,896
1981	86,630	32,706
1982	96,000	34,369
1983	100,100	31,775
1984	105,800	32,917
1985	112,000 (Estimate)	33,360
1986	107,000 (Budget)	34,204

1/ Without TQ
TQ = 11,050 = 5,926 (1965 Dollars)

CORPS OF ENGINEERS APPROPRIATIONS
FY 1967 THROUGH FY 1986
(Dollars in Thousands)

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

Fiscal Year	Actual Appropriation	Value in July 1965 Dollars
1967	87,135	87,135
1968	87,135	84,034
1969	69,600	63,973
1970	80,820	65,615
1971	83,987	63,731
1972	86,000	59,310
1973	111,620	66,051
1974	264,600	149,147
1975	120,051	61,060
1976	205,147 1/	100,614
1977	231,497	99,741
1978	253,081	101,340
1979	223,035	86,056
1980	210,515	77,129
1981	237,519	80,544
1982	256,310	81,341
1983	403,052 2/	116,171
1984	302,480	80,965
1985	321,000 (Estimate)	81,670
1986	269,000 (Budget)	68,990

1/ Without TQ. TQ = 60,300 = 29,574 (1965 dollars)

2/ Includes $140 million appropriated under Jobs Act.

As of 1 February 1985

TABLE 7

CORPS OF ENGINEERS - CIVIL WORKS
UNFUNDED BALANCE TO COMPLETE AFTER FY 1986
ACTIVE AUTHORIZED PROJECTS

	No. of Proj.	Estimated Federal Cost ($000)	Allocations Thru FY 1985 ($000)	Budget FY 1986 ($000)	Balance to Complete	
					Scheduled ($000)	Unscheduled ($000)
1. CONSTRUCTION NOT STARTED:						
Projects in FY 1986 Budget	14	1,513,249	18,134	5,404	16,632	1,473,079
AE&D New Starts	1	734,000	0	250	3,950	729,800
Continuing AE&D	13	779,249	18,134	5,154	12,682	743,279
Projects not in Budget	100	5,820,876	76,764	0	0	5,744,112
No AE&D Required	5	266,885	0	0	0	266,885
AE&D Fully Funded	36	577,406	36,698	0	0	540,708
Continuing AE&D	36	3,627,346	39,996	0	0	3,587,350
AE&D Not Started	22	769,239	0	0	0	769,239
Restudy Funds Only	1	580,000	70	0	0	579,930
Total	114	7,334,125	94,898	5,404	16,632	7,217,191
2. CONSTRUCTION PROJECTS:						
Projects in FY 1986 Budget	136	16,714,429	9,316,852	828,861	3,686,556	2,882,160
Construction New Starts	29	684,536	33,237	44,740	605,909	650
Continuing Construction	95	15,787,803	9,197,037	743,304	2,965,952	2,881,510
Reimbursements	1	5,500	3,940	480	1,080	0
Major Rehabilitation and Dam Safety Assurance	11	236,590	82,638	40,337	113,615	0
Projects not in Budget	87	6,152,692	4,074,500	0	0	2,078,192
Continuing Construction	71	5,977,025	4,045,615	0	0	1,931,410
Reimbursements	13	33,567	22,005	0	0	11,562
Major Rehabilitation and Dam Safety Assurance	3	142,100	6,880	0	0	135,220
Total	223	22,867,121	13,391,352	828,861	3,686,556	4,960,352
3. MISSISSIPPI RIVER AND TRIBUTARIES:						
Projects in FY 1986 Budget	19	4,082,765	1,501,014	116,895	2,003,590	461,226
Continuing AE&D	3	140,400	4,311	1,345	3,844	130,900
Continuing Construction	15	3,[illegible]33,365	1,496,603	112,050	1,994,346	330,366
Dam Safety Assurance	1	9,000	100	3,500	5,400	0
Projects not in Budget	15	768,564	188,293	0	0	580,271
Construction Not Started	2	52,498	1,235	0	0	51,263
Continuing Construction	12	676,066	149,458	0	0	526,608
Land Acquisition	1	40,000	37,600	0	0	2,400
Total	34	4,851,329	1,689,307	116,895	2,003,590	1,041,537

CORPS OF ENGINEERS - CIVIL WORKS
PROJECTS IN FY 1986 BUDGET*

	No. of Proj.	Estimated Federal Cost ($000)	Allocations Thru FY 1985 ($000)	Budget FY 1986 ($000)	Balance to Complete	
					Scheduled ($000)	Unscheduled ($000)
1. CONSTRUCTION NOT STARTED:						
AE&D New Starts	1	743,000	0	250	3,950	729,800
Multiple Purpose	1	743,000	0	250	3,950	729,800
Continuing AE&D	13	779,249	18,134	5,154	12,682	743,279
Navigation	4	301,349	3,550	935	8,105	288,759
Flood Control	9	477,900	14,584	4,219	4,577	454,520
Total	14	1,522,249	18,134	5,404	16,632	1,473,079
2. CONSTRUCTION PROJECTS:						
Construction New Starts	29	684,536	33,237	44,740	605,909	650
Navigation	6	214,597	1,263	9,900	203,434	0
Flood Control	19	462,693	29,695	33,240	399,758	0
Beach Erosion Control	1	4,550	483	700	2,717	650
Multiple Purpose	3	2,696	1,796	900	0	0
Continuing Construction	95	15,787,803	9,197,037	743,304	2,965,952	2,881,510
Navigation	20	5,129,430	2,645,007	263,204	659,624	1,561,595
Beach Erosion Control	5	81,481	45,745	8,660	25,486	1,590
Flood Control	62	7,263,892	3,547,731	381,882	2,075,519	1,258,760
Multiple Purpose	8	3,313,000	2,958,554	89,558	205,323	59,565
Reimbursements	1	5,500	3,940	480	1,080	0
Major Rehabilitation and Dam Safety Assurance	11	236,590	82,638	40,337	113,615	0
Total	136	16,714,429	9,316,852	828,861	3,686,556	2,882,160
GRAND TOTAL	150	18,236,678	9,334,986	834,265	3,703,188	4,355,239

* Does not include Mississippi River and Tributaries.

CORPS OF ENGINEERS - CIVIL WORKS
PROJECTS NOT IN FY 1986 BUDGET*

	No. of Proj.	Estimated Federal Cost ($000)	Allocations Thru FY 1985 ($000)	Budget FY 1986 ($000)	Balance to Complete Scheduled ($000)	Balance to Complete Unscheduled ($000)
1. CONSTRUCTION NOT STARTED:						
No AE&D Required	5	266,885	0	0	0	266,885
Navigation	2	4,850	0	0	0	4,850
Beach Erosion Control	1	2,845	0	0	0	2,845
Multiple Purpose	2	259,190	0	0	0	259,190
AE&D Fully Funded	36	577,406	36,698	0	0	540,708
Navigation	16	110,416	7,795	0	0	102,621
Beach Erosion Control	1	8,100	222	0	0	7,878
Flood Control	19	458,890	28,681	0	0	430,209
Continuing AE&D	36	3,627,346	39,996	0	0	3,587,350
Navigation	9	1,680,306	16,485	0	0	1,663,821
Beach Erosion Control	3	132,220	2,306	0	0	129,914
Flood Control	21	2,290,120	19,578	0	0	1,270,542
Multiple Purpose	3	524,700	1,627	0	0	523,073
AE&D Not Started	22	769,239	0	0	0	769,239
Navigation	6	67,600	0	0	0	67,600
Beach Erosion Control	3	77,199	0	0	0	77,199
Flood Control	11	606,950	0	0	0	606,950
Multiple Purpose	2	17,490	0	0	0	17,490
Restudy Funds Only	1	580,000	70	0	0	579,930
Total	100	5,820,876	76,764	0	0	5,744,112
2. CONSTRUCTION PROJECTS:						
Continuing Construction	71	5,977,025	4,045,615	0	0	1,931,410
Navigation	22	2,983,349	2,332,742	0	0	650,607
Beach Erosion Control	7	93,480	27,041	0	0	66,439
Flood Control	38	2,003,796	1,237,339	0	0	766,457
Multiple Purpose	4	896,400	448,493	0	0	447,907
Reimbursements	13	33,567	22,005	0	0	11,562
Major Rehabilitation and Dam Safety Assurance	3	142,100	6,880	0	0	135,220
Total	87	6,152,692	4,074,500	0	0	2,078,192
GRAND TOTAL	187	11,973,568	4,151,264	0	0	7,822,304

* Does not include Mississippi River and Tributaries.

CORPS OF ENGINEERS - CIVIL WORKS
SUMMARY - ALL AUTHORIZED PROJECTS

	No. of Proj.	Estimated Federal Cost ($000)	Allocations Thru FY 1985 ($000)	Budget FY 1986 ($000)	Balance to Complete	
					Scheduled ($000)	Unscheduled ($000)
ACTIVE PROJECTS:						
Construction Not Started	114	7,334,125	94,898	5,404	16,632	7,217,191
Construction Projects	223	22,867,121	13,391,352	828,861	3,686,556	4,960,352
Total	337	30,201,246	13,486,250	834,265	3,703,188	12,177,543
DEFERRED PROJECTS	141	3,503,981	149,817	0	0	3,354,164
INACTIVE PROJECTS	395	6,139,820	262,488	0	0	5,877,332
MISSISSIPPI RIVER AND TRIBUTARIES:						
Active Projects	34	4,851,329	1,689,307	116,895	2,003,590	1,041,537
Deferred Projects	4	151,077	9,390	0	0	141,687

minneapolis

city of lakes

MAYOR DONALD M. FRASER

[illegible]

October 29, 1982

Honorable William R. Gianelli
Assistant Secretary of the Army
  (Civil Works)
Washington, D.C.   20310

RE: Bassett Creek Flood Control

Dear Mr. Gianelli:

This will acknowledge receipt of your letter of October 7, 1982 and confirm that a meeting was held with Messrs. R. G. Eiland and D. A. Sandison of your personal staff on October 13, 1982. Your letter and the personal conference held with your representatives explained a new cost-sharing formula for the Bassett Creek Flood Control project. It is our understanding that if the proposed cost-sharing formula is accepted by the City of Minneapolis, the project sponsor, the project would be recommended by you for a construction start in fiscal year 1984.

The City is willing, subject to obtaining its share of local funding, to cooperate with the Federal Government in the initiation of project construction in fiscal year 1984 under the financing and cost-sharing provisions stated in the letter and explained by Messrs. Eiland and Sandison. The Bassett Creek Watershed, we believe, is unique in that substantial construction and land acquisition have taken place and have been funded by the City of Minneapolis and the eight other communities in the watershed. We understand that the following financing and cost-sharing provisions are applicable to the Bassett Creek project:

1. The City of Minneapolis will provide during the period of construction the entire costs of lands, easements and rights-of-way necessary for construction of the project and necessary relocations and alternations to existing improvements, including highway fac[illegible]s, which may be required for construction of the project, or 35

AFFIRMATIVE ACTION EMPLOYER

TABLE 6
STUDIES FUNDED OR BUDGETED UNDER THE TWO PHASE STUDY PROCESS
(DOLLARS IN THOUSANDS)

DIVISION	STUDY NAME	STATUS @	DATE OF 1/ CONDITIONAL COST-SHARING CONTRACT	ESTIMATED COST		
				TOTAL STUDY FED/NONF	RECON COST	FY1986 BUDGET
NAD	Delaware River Basin, NY, PA, NJ (Ice Jams)	D	None #	100	100	0
NAD	Chesapeake Bay Shoreline Erosion, MD&VA	IF	MAR86	3500	500	300
NAD	Gathright Dam & Lake Moomaw, VA	IF	JUN86	1070	200	100
SAD	Bayou La Batre, AL	F *	APR85	362	80	66
SAD	Escambia River, FL	F *	OCT86	476	110	83
SAD	Mississippi Gulf Coastal Area, MS	F *	APR85	2060	300	200
SAD	Burnswick Harbor, GA	F *	MAR85	1370	150	210
SAD	South Metropolitan Atlanta Region, GA	F *	MAR85	1514	300	157
SAD	St. Mary's River Basin, FL & GA	F *	11JAN85	2048	200	100
SAD	South Yadkin River, NC	F *	MAY85	1294	250	210
SAD	Valley Creek, Warrior River & Tribs. AL	IF	OCT85	830	160	200
SAD	Savannah River Basin, GA	IF *	SEP85	1600	300	100
SAD	Coast of Florida Erosion & Storm Effects Study, FL	IF *	SEP85	13950	250	550
ORD	Muskingum River, Wolf Creek & Tuscarawas River Interim, OH	IF	MAR86	1000	200	200
ORD	Central OH Survey, Grandview Heights, OH	R	SEP86	200	200	200
ORD	Tradewater River Basin, KY	IF	MAR86	1400	300	250
NCD	Fort Wayne Metropolitan Area, IN	F *	MAR85	1100	80	220
NCD	Mackinaw River, IL	F *	MAR85	870	205	100
NCD	Vermilion River, IL	F *	13FEB85	750	210	75
NCD	Vermilion River, OH	R	SEP86	180	180	180
NCD	IL River between Henry and Naples, IL	IF *	SEP85	1140	375	140
NCD	Souris River Basin, ND	IF	FEB86	2040	340	150
MRT	Eastern Arkansas Region Comprehensive Study, AR	F *	MAR85	3400	800	300
MRT	Southwest MS Tribs Basin, MS	F *	None &	4150	650	400
LMVD	Amite River & Tributaries, LA	F *	5FEB85	3450	450	300
LMVD	Louisiana Coastal Area (Land Loss & Marsh Creation), LA	F *	26DEC84	2420	400	150
LMVD	Louisiana Coastal Area (Water Supply), LA	F *	26DEC84	3800	400	262
LMVD	Louisiana Coastal Area (Shore & Barrier Island Erosion), LA	F *	26DEC84	2800	290	200
LMVD	Bayou La fourche & La fourche Jump Waterway, LA	R	NOV84	80	80	80
SWD	Fountain Creek & Tribs, North of Pueblo, CO	F *	APR85	1275	265	185
SWD	Arkansas River Basin, AR & OK	F *	JUN85	2150	310	200
SWD	White River Basin Auth. Report, AR&MO	IF *	SEP85	1390	400	250
SWD	Verdigris River Basin, Caney River, KS&OK	D	None #	129	129	0
SWD	Arkansas River & Tribs, South Central & Southeast Areas of OK	F *	MAR85	1950	300	300
SWD	Red River Basin, AR, TX, LA & OK	F *	MAR85	2600	390	350
SWD	Pecos River & Tribs, NM	IF	JUN86	2600	400	220
MRD	Osage River Basin, MO. above Harry S. Truman Dam	F *	10JAN85	1840	400	325
MRD	Republican River, Harlan County Dam to Milford Lake, NE&KS	IF *	SEP85	800	200	100

TABLE 6
STUDIES FUNDED OR BUDGETED UNDER THE TWO PHASE STUDY PROCESS
(DOLLARS IN THOUSANDS)

DIVISION	STUDY NAME	STATUS @	DATE OF 1/ CONDITIONAL COST-SHARING CONTRACT	ESTIMATED COST TOTAL STUDY FED/NONF	RECON COST	FY1986 BUDGET
MRD	Blue River Basin,KS&MO	R	SEP86	250	250	250
SPD	Northern California Streams (Dry Creek Interim), CA	F *	APR85	1200	300	150
SPD	Caliente Creek Stream Group, CA	F *	28FEB85	2067	933	140
SPD	Las Vegas Wash & Tribs, NV	F *	APR85	1850	450	375
SPD	Nogales Wash - Gila River, AZ	CF *	APR85	825	200	235
SPD	Phoenix Metro, Old Cross Cut Canal, AZ	F *	MAR85	575	30	175
SPD	Virgin River & Tribs (Moapa Valley), NV	F *	APR85	1640	400	200
SPD	Guadalupe River, Coyote Creek, CA	CF *	MAR85	538	113	135
SPD	Ventura Marina, CA	IF	MAR86	1000	250	100
NPD	Galena Bank Stabilization, AK	F *	MAY85	508	95	100
NPD	Malheur Lake, OR	CF *	MAY85	749	240	165
NPD	Homer Spit Erosion, AK	IF *	NOV85	975	385	150
POD	South Kohola Water Supply, HI	F *	None &	530	150	73
POD	Wailuku-Hanolii Hydropower,HI	F *	None &	596	180	75
POD	Northern Mariana Islands,CNMI	IF *	JUN85	2035	355	250
			TOTALS	89026	15385	9986

TOTAL NUMBER OF STUDIES	53
NUMBER OF STUDIES DISCONTINUED	2
NUMBER OF STUDIES BUDGETED FOR RECON	4
NUMBER OF STUDIES BUDGETED FOR INITIATION OR CONTINUATION OF FEAS	44
NUMBER OF STUDIES BUDGETED FOR COMPLETION OF FEAS	3

@ STATUS BASED ON FY86 BUDGET
R- Initiate and complete recon phase
IF- Initiate Feasibility Phase
F- Continue Feasibility Phase
CF- Complete Feasibility Phase
D- Discontinued
*- Reconnaissance Phase Scheduled for Completion with FY85 Funds

@ Follow on Feasibility phase not necessary based on recon phase results, Identified problems will be addressed under other authorities.

& Insufficient Federal interest in initiating Feasibility phase based on results of recon phase.

1/ Non-Federal contribution contingent upon implementation of study cost sharing by Department of the Army.

percent of the total project costs, whichever is greater. Such total project costs shall not include recreation development costs, which are to be cost-shared in accordance with Public Law 89-72. The City recognizes that the provision of lands, easements and rights-of-way, as well as necessary relocations in connection with the local flood control project, is a non-Federal responsibility, and the City will bear the full cost thereof, even if it exceeds 35 percent of the project's total construction cost.

2. The project to be constructed at this time is that generally described in the Flood Control, Bassett Creek Watershed, Design Memorandum No. 2, Phase II, dated September 1982. The cost of the project at price levels of October 1982 is estimated by the Corps of Engineers to be $28,540,000. The Federal expenditures are estimated at $18,540,000, utilizing the 35-percent cost-sharing formula.

3. Land acquisitions and land damages and prior non-Federal construction costs will be appraised and evaluated and credits allowed to the City in an amount to be negotiated between our representatives and representatives of the Corps of Engineers. This project is unique in that we believe we are the first in the country to enter into a 215 Agreement with the Corps of Engineers wherein we have participated and constructed substantial portions of the project, advanced monies for a portion of the Federal share of construction, and acquired substantial lands in an effort to prepare the Corps construction. These acquisitions and the construction work were done pursuant to authority contained in Section 173 of the 1976 Water Resources Development Act (Public Law 94-587) and a 215 Agreement entered into between the local communities and the Corps of Engineers.

It is also understood that:

1. Operation and maintenance of the completed flood control project will be the responsibility of the City.

2. Prior to the start of construction, execution of a Section 221 Agreement (Section 221, Public Law 91-611) will be required. That agreement will reflect the cost-sharing provisions specified above as well as other items of local cooperation, and as required by the authority provided in the 1976 Water Resources Development Act (Public Law 94-587).

The City of Minneapolis is by law empowered to provide the non-Federal cooperation assurances and financing required by the Federal Government for flood control projects. The City will provide its share of non-Federal funds from tax revenues.

Finally, it is understood that the Assistant Secretary of the Army for Civil Works will recommend to OMB that funds be included in the President's budget for fiscal year 1984 for initiation of construction in that year and that you will request *funds in succeeding years. If this letter reflects your understanding, I would appreciate receiving a countersigned copy.*

I would also like to thank you at this time for facilitating the visit of Mr. Eiland and Mr. Sandison and explaining to us your current policy as it relates to flood control projects.

Sincerely,

Donald M. Fraser
M A Y O R

DMF/PDS/mac

DEPARTMENT OF THE ARMY
OMAHA DISTRICT CORPS OF ENGINEERS
6014 U.S. POST OFFICE AND COURTHOUSE
OMAHA, NEBRASKA 68102

REPLY TO
ATTENTION OF
Public Affairs Office

February 22, 1985

Honorable Max S. Baucus
United States Senate
Washington, DC 20510

Dear Senator Baucus:

You may be aware that the Department of the Army has determined that it no longer requires administrative control of most of the lands and improvements comprising the three townsites of Fort Peck, Montana; Riverdale, North Dakota; and Pickstown, South Dakota. The purpose of this letter is to update you on plans for transferring ownership of these lands and improvements.

The Federal Government established the townsites to house workers during the construction of the Corps dams on the Missouri River and has operated and maintained them since then. From a financial standpoint, it is not practical to continue to do so.

In view of these circumstances, special legislation was introduced in the 98th Congress concerning the transfer of townsite ownership from the Federal Government to non-Federal parties. Although this legislation was not enacted, the Army is committed to the transfer of these townsites in an expeditious manner.

In the absence of special legislation, the only authorized transfer procedure is through the General Services Administration (GSA) under the Federal Property and Administrative Services Act of 1949, as amended. As a first step toward transfer under that authority, the Department of the Army recently asked GSA about the procedures it will follow in selling the townsites. We were advised that GSA will consider the needs of the residents as much as it is possible to do under the provisions and limitations of the Federal Property and Administrative Services Act and the Federal Property Management Regulation (FPMR Part 101-47).

It is my understanding that, if the residents of the townsites can form public entities prior to the screening process of state and local governments, GSA could negotiate for the sale of the entire townsites to such entities--provided that no other Federal agency required the property. This could result in the transfer of facilities such as schools, parks, and roadways at no cost to these public entities. Independent appraisers would be used to place fair market values on other properties proposed for sale. The public entities could then resell the properties to individual residents or others under any conditions they found desirable.

If efforts to incorporate the townsites prove unsuccessful, townsite residents would not be eligible for the opportunities available with this option. Therefore, I intend to thoroughly explore the feasibility of townsite incorporation with the residents and the respective state and county officials. My staff and I will assist the town residents in their efforts to form municipalities.

I am currently assessing the situation to determine the best possible implementation method and am making every effort to protect the rights and interests of the townsite residents. Public meetings will be held to inform the residents of this development and to answer questions and seek comments on the transfer action. As soon as these meetings are scheduled, you will be invited to attend.

I am hopeful that we can all work together in the following months to achieve the most satisfactory results in this endeavor.

Sincerely,

William R. Andrews, Jr.
Colonel, Corps of Engineers
District Engineer

Senator BAUCUS: My concerns have to do with plans to transfer ownership of three locations -- Fort Peck, Montana; Riverdale, North Dakota; and Pickstown, South Dakota -- from current Federal ownership to non-federal parties --- Why is the Corps now seeking to transfer these three townsites under the authority of the General Services Administration rather than the straignt forward approach of transfer through legislative authority?

RESPONSE: Since draft legislation that was proposed in 1982 and 1983 making the Army the disposal agent was not enacted, the only authority to dispose of the property is the Federal Property Administration Services Act of 1949, as amended. Under that Act, GSA is the government's disposal agent.

Senator BAUCUS: Why is the Administration proposing such onerous user fees when the agricultural and barge industries are economically devastated?

RESPONSE: From the point of view of the users of Federal facilities and services, there is never a good time to shift the financing of such programs to a cost recovery or cost sharing basis. Admittedly, these are not good times for either inland barge operators or farmers. It is also a critical time in the nation's effort to reduce the budget deficit. Cost recovery and cost sharing can make a material contribution to the recuction of the deficit.

Senator BAUCUS: I have seen estimates that the Administration's inland waterway user fee proposal would add a staggering 20 percent to the cost of transporting grain from Minneapolis to New Orleans. How much would water transportation rates increase for commodities shipped on the Columbia-Snake system? What is the cumulative impact of the Administration's port and inland user fees on various commodities; i.e., grain shipped via the Port of Lewiston to Columbia River ports for export?

RESPONSE: A series of impact computations were calculated by a DOT/ Corps of Engineers task group. These tables may be found at Enclosure 10. Table I presents representative commodities and movements and shows the aggregate of all proposed user charges (inland and port) as a dollar amount per short ton and as a percentage of the delivered price of various commodities including grain shipped on the Columbia-Snake system. Tables IVA through IVC display the cumulative impacts of all fees and transportation costs from origin to final destination focusing on the Mississippi-Gulf system. For the specific movement of grain from the Port of Lewiston to a Columbia River port, the 1.5 mills per-ton-mile would add about 1.247¢ per bushel to a movement from Chouteau County, Montana via Lewiston to Portland. The barge rate from Lewiston to Portland is approximated at 15.5¢ per bushel. This 15.5¢/bushel quoted barge rate includes the existing 8¢ per gallon fuel tax. The waterway fees would, therefore, represent a 8% increase in the barge rate, not including the river elevator transfer charge (5¢/bushel), the truck cost to the river elevator (65¢/bushel), nor the inland terminal elevator charge (10¢/bushel). Similar calculations for origins in Franklin County, Washington via Eltopis/Pasco by barge (11.9¢/bushel) with an incremental waterway user fee of 0.734¢/bushel increases the barge rate by about 6%. As a percent of the value of this grain, the waterway fees are about 0.3% and 0.2% respectively, Senator BAUCUS: Considering the depressed state of the local economy, how much of these increased fees, in your estimation, will the barge industry be able to pass on? And in turn, please respond to that same question for farmers.

RESPONSE: The barge industry is currently suffering from over capacity because of declines in export trade traceable to the rise of the dollar on world financial markets. The user fee proposal contributes to a reduction in the deficit and overall continued improvement in the national economy including the barge industry. As continued growth develops, the burden of these fees will be distributed widely, with no single economic sector paying the whole charge. Some of the fee will be absorbed by the barge industry as the fee encourages management efficiency in scheduling and investment. In the long run this may result in some modest displacement of resources from this industry into higher return alternative economic sectors. Some portion of the charge will be passed on to farmers. Given the unresponsive nature of grain consumption to prices most of this increase will be passed onto importers of U.S. grain and to consumers of products for which grain is a production input (examples include poultry production, and corn sweetener production).

Senator BAUCUS: How does the Administration's proposed user fee increase of 1.5 mills per ton-mile relate to allocation of commercial navigation's share of the Corps' operation and management expenditures?

RESPONSE: The 1.5 per ton-mile fee would recover approximately 70 percent of the total Federal cost for the next five years of new construction and operation and maintenance for the inland waterway system.

Senator BAUCUS: What would be the impact on the Corps' budget request if no new user fees were enacted to make up the shortfall of $403 million.

Response: If the $403 million is not available there would have to be a serious reconsideration of the FY 1986 Civil Works program level and the distribution of funds. However, that is a decision which would have to be addressed based on the FY 1986 budgetary situation at the time it becomes clear that the user fees will not be able to contribute a reasonable share to the cost of the ports and waterways. I am as reluctant to speculate about the likelihood of future events as I am confident that, together the Administration and Congress would take appropriate action to assure that the priority operation, maintenance and construction activities occur. I do not think it would be wise to rule out consideration at the proper time of any appropriate alternative. Whatever the case may be, I am pledged to work closely with Congress to address this concern.

Senator BAUCUS: A second area of concern regards the decision that the Department of the Army no longer requires administrative control of most of the lands and improvements comprising the townsite of Fort Peck. What is the basis for the decison that administrative control is no longer needed?

RESPONSE: Throughout the years, the Corps of Engineers Fort Peck Lake project employee population living in the townsite has decreased to less than 1/2 of the total project employees. This decrease in population has reached a point that the townsite is no longer considered essential for the operation and maintenance of the Fort Peck Lake Project. The expense of operating and maintaining the townnsite is no longer a necessary Federal expense.

Senator BAUCUS: What are the long term repercussions for residents of the Fort Peck townsites that work for the Army Corps of Engineers? That work for the Western Area Power Administration? That provide services to these Federal employees?

RESPONSE: GSA and the Army are working toward setting up town entities with as little disruption to current residents as possible. We intend to continue to make every effort to protect the interests of current townsite residents.

Senator BAUCUS: How will appurtenances such as sewer, water, electricity, an natural gas be provided to residents of the townsites?

RESPONSE: The Omaha District is in the process of evaluating the utility systems at the townsites and determining methods to ensure their continued availability. Montana-Dakota Utilities owns and maintains the natural gas distribution systems at Fort Peck and Riverdale. There is no natural gas system at Pickstown. Transfer of the electric systems to local Rural Electric Associations is being investigated. Since the Army will have continuing mission requirements at these sites, we will ensure the continued availability of utilities.

Senator BAUCUS: What assistance will be provided to purchasers to obtain loans to facilitate purchases?

RESPONSE: If a community is formed, GSA can offer liberal credit terms and, possibly, mortages as part of the negotiated sale to the public entity. This public entity could than assist individual purchasers. Also, the Corps will assist residents in identifying other available Federal assistance programs.

Senator BAUCUS: What assistance will be provided to assist in setting up a town government?

RESPONSE: The Omaha District distributed notices of the proposed transfer on February 21, 1985, to State and local governments. A letter to townsite residents was mailed February 25, 1985. A public notice was sent out on February 27, 1985. District is in the process of hiring a private contract consultant to be available to the residents to assist in the decision to incorporate or not. Public meetings have tentatively been set for April 15, 1985. Representatives from GSA and the Corps will be present.

Senator BAUCUS: What assurances will be made to ensure that those individuals who are unable to purchase the properties will be able to reside in the area?

RESPONSE: Any public entity formed by the community could develop properties for rental or could sell rented properties to private investors.

Senator BAUCUS: What assurances does the Corps of Engineers have to ensure that the Fort Peck townsite will remain a viable community?

RESPONSE: Under current law, once the townsites are transferred, the Corps has no authority to guarantee their continued viability. However, we are working closely with the GSA and townsite residents to effect a transfer that should allow Fort Peck to remain a viable community.

Senator BAUCUS: What portion of the townsite is not required for Federal employees?

RESPONSE: The Omaha District is in the process of determining what property, if any, will be retained for operational purposes.

Senator BAUCUS: Why has the Corps of Engineers proposed to dispose of the townsites as excess property rather than develop a plan for the orderly transfer of the property from the Federal government to private and local municipal ownership?

RESPONSE: The Corps and GSA are developing plans for the orderly transfer of the townsites from Federal ownership to any local municipal entity, currently existing or formed for the purpose. The Corps cannot proceed alone as the transfer agent under existing authorities.

Senator BAUCUS: Why not provide the residents of the Fort Peck townsites the same opportunities as were the residents of townsites such as Page, Arizona, and Boulder County, Colorado?

RESPONSE: The disposal of Boulder City, Colorado, (Sec. 3 & 4, PL 85-900) and Page, Arizona (Title 1, PL 93-493) was under special legislation authorizing various terms and conditions not available under tne general disposal laws. Special legislation for the townsites was drafted and introduced as part of last year's water resource bill. However, this bill did not pass.

Senator ABDNOR: Using several common shipping routes as examples, please calculate shipping and unit cost increases for the following commodities caused by the proposed inland and port fees: grain, coal, chemicals, and petroleum. Please calculate in dollars and percentage increase.

RESPONSE: A series of impact computations, similar to the one you requested, were developed by a DOT/Corps of Engineers task group. These tables may be found at Enclosure 10. Table I of this series addresses your question, and includes routings for grain, coal, fertilizer (agricultural chemicals) and petroleum.

Senator ABDNOR: Describe in detail how the Corps will determine project sponsors' "ability to pay" for project cost sharing purposes.

RESPONSE: Federal financing of the non-Federal share of project implementation costs would apply to only those projects or portions of projects which have flood damage reduction, recreation, hurricane and storm damage reduction, or agricultural water supply outputs. For multi-purpose projects that provide flood damage reduction and hydropower outputs, for example, only that portion of the project cost assigned to flood damage reduction would be eligible for an "ability to pay" determination. Although detailed procedures for determining "ability to pay" have not been developed yet, we would expect that a key aspect of such a determination will be the amount of benefits produced by the project and the ability of the sponsor to use these benefits to support its share of the project costs over and above the value of in-kind contributions which they can provide.

Senator ABDNOR: How is this similar or different (determination of sponsor's "ability to pay") from those procedures of the Bureau of Reclamation?

RESPONSE: The Bureau of Reclamation uses the farm budget concept and calculates the price that the farmer can pay for water and still receive a fair return on his investment. However, this often results in farmers paying less than the cost allocated to irrigation because there is no attempt to recover costs from the non-farm beneficiaries included in the Bureau's analyses of project economics.

Also, the Bureau's determination of ability to pay is not to determine the ability to pay during construction but rather the ability to make annual payments over the life of the project. Army's determination would be of the sponsor's ability to pay during construction. The percentage of construction costs required as the non-Federal contribution takes into consideration the sponsor's capability to identify and take advantage of all the benefits used to justify the project. For flood control the required percentage is only 35 percent of the costs and an even lesser share of the benefits, assuming the benefit to cost ratio is greater than one. This small percentage reflects the difficulty in identifying beneficiaries and in utilizing all of the benefits to assemble financing packages.

Procedurally, there will be substantial differences in the Bureau's and the Corps computations of ability to pay. Conceptually, there should be little difference - both rely on translation of at least part of the project benefits into payments of costs allocated to various project purposes.

Senator ABDNOR: By how many miles does the new definition of the Inland Waterways in the bill expand the segments of the system subject to the fuel tax?

RESPONSE: The fuel tax, as authorized by PL 95-502, covered some 10,700 miles of waterway. The ton-mile fee covers approximately 12,300 miles of U.S. waterways.

Senator ABDNOR: Why is the authorization for the second lock at Lock and Dam 26 not included in the Administration's inland waterways bill?

RESPONSE: The authorization for the second lock at Lock and Dam 26 is not included in the Administration's inland waterways bill because there is no Chief of Engineers Report available for review on that lock. Completion of Executive Branch review of a project report resulting in a favorable recommendation was the basic criteria for inclusion of a project in the bill.

Senator ABDNOR: In setting the proposed inland waterway tax, how was the 70 percent recovery rate decided upon?

RESPONSE: First, we have proposed a user fee rather than a tax. The amount was established by the Administration as part of the FY 1986 Budget formulation. It reflects a commitment to reduce subsidies to the commercial sector.

Senator ABDNOR: What new start assumptions (budgetary and numbers of projects) are made for Fiscal Year 1986 - Fiscal Year 1990? What criteria will be used to select new starts in those years?

Response: In Fiscal Year 1986 we have recommended 29 construction new starts with a total cost of $1.6 billion of which local sponsors will provide $900 million. The Fiscal Year 1986 request for these projects is $44.7 million. Future year construction new start amounts are not project specific, but we do include a programmatic wedge of funding for new starts after FY 1986 in FY 1987 through FY 1990. This wedge includes the assumed initial and continuing funding for all future construction new starts and, as its name implies, it grows as funds for each year's new starts are added. This amount goes from $30 million in FY 1987 to $270 million in FY 1990.

Most of the criteria the Army uses to select new starts stay fairly constant, especially those having to do with economic justification and long-standing legal and institutional constraints. Of course, as Congress passes new laws or the Administration develops new policy, the Army does follow suit by adding or deleting related criteria. The Corps cannot predict what specific changes may occur between now and FY 1990, but it seems likely that, with the exception of potential changes to non-Federal contribution requirements, the criteria will be very similar to those used for FY 1986.

Senator ABDNOR: How were the proposed new starts in the Fiscal Year 1986 budget selected?

RESPONSE: The Department's selection criteria are formally developed as indicated in the table below. In all cases other than inland waterway projects which have no cost sharing sponsor, once it was decided that a project was fully acceptable according to these criteria, the local sponsor was approached by the responsible District Engineer with the commitment that if the sponsor agreed to seek its share of project funding based upon the proposed formula, the Department would seek to include the project in the President's FY 1986 budget. In the case of inland waterway projects, of the two available projects, Gallipolis was recommended as a new start subject to legislation which would authorize the project and collection of user fees. Gallipolis was chosen based upon its high B/C ratio reflecting existing and projected large traffic delays due to congestion, even with the enactment of user fees.

[The information follows:]

Senator ABDNOR: Have local project sponsors agreed to the Administration's desired level of cost sharing in all cases?

RESPONSE: Yes, sir, the sponsors of all recommended new construction start projects have.

Senator ABDNOR: Please describe how and where the Corps intends to collect the proposed recreation user fees. Will these fees lessen public use of these facilities? How much money will have to be sent for new personnel and facilities for fee collection? Does the Corps currently charge fees for any recreation facilities?

RESPONSE: Our proposed legislation removes the prohibition for the Corps to collect entrance fees. This Administration will propose general legislation which will establish entrance fees at federally operated recreation areas. We anticipate that areas in which fees are collected will increase from the present 620 to approximtely 1300. Another 900 or so will remain open to the public at no charge. The fees will be collected by either contract gate attendant, our most economical choice, or roving rangers. We are anticipating significant collections via an annual permit, similar to the Golden Eagle passport used by the NPS and USFS.

The fees may impact visitation, but it is important to keep in mind that not all of our areas are suited for fee collection, and it may not be economically justified to collect in others. There is also a point of diminishing returns where, given increased user charges, visitation begins to decrease as alternative, less expensive leisure activities are substituted. However, we feel that a majority will continue to utilize these facilities. Additions and modifications to existing operations must be made in order to realize increased collections from any enacted legislation. Personnel costs to collect fees will be high until modifications to the areas are made to allow cost effective collection. One-time costs to facilitate collection (area entrance modification, construction of fee collection stations, increased contract gate attendant cost) will be out of proportion to collections in the initial year of expanded collection. In order to fully realize the expanded scope of collection, it is anticipated that the Corps will require appproximately $10 million to gear up for a full collection effort.

Additionally, it will take one or two years to "ramp up" to full collection status at all areas where collection is feasible. The full scope of the collection effort will not be immediately available.

Overnight camping is currently our primary source of user fee collections. We also collect fees for some group picnic sites and for activities which require extra support by Corps manpower and resources.

Senator Abdnor: Please describe the current situation and Corps action with respect to the cabin lease site holders on the Upper Mississippi and Illinois Rivers?

Response: On January 17, 1985, the Corps was instructed to proceed with implementation of the proposed extension of the current leases for a 20-year term. The new leases will be at fair market value rental and contain liability waivers, prohibitions against reconstruction in the event of substantial damage, restrictions to recreational use only and termination for park or other public purposes. Formal public notices have been issued and public comments and views are anticipated.

Senator Abdnor: Is the Corps working to resolve any problems as quickly as possible?

Response: Yes. The Corps will prepare a summary of any views and comments by the general public and a report setting out final recommendations. The Corps considers this a high priority matter and will work expeditiously to resolve any problems that arise.

Senator ABDNOR: Please describe any research and development efforts that the Corps is undertaking. Do any of these efforts hold out the promise of saving money on project construction and maintenance in the future.

RESPONSE: The Corps R&D activities underpin the Civil Works program in improving the Corps of Engineers capability to accomplish its water resources mission and program with optimum effectiveness, economy and safety and with serious concern for protection and enhancement of environmental and social values. Each year through an extensive program review process, the R&D program is developed and prioritized to address the specific problem oriented need of the Corps. In FY 85 it is a $33 milion dollar program addressing the critical needs of the Corps in the seven broad research areas of materials, coastal engineering, flood control and navigation, environmental quality, water resource planning studies, surveying and satellite applications, and construction operations and maintenance.

The research effort is a highly applied activity, utilizing products and techniques developed by industry and universities, and adapting them to Civil Works needs. This R&D effort is essentially a "problem solving" process for which the Corps systematically examines new ideas, approaches, and techniques, with a view toward improving the efficiencies of its planning, design, construction, operations and maintenance activities. The overall program is carefully developed to have a high potential for saving money and resources in each of the seven research areas by focusing on the Corps highest priority needs and looking to technology applications that have high probability of success.

Senator ABDNOR: Please list your ongoing and proposed dam safety projects. Please briefly describe the type of work to be done in each case, the cost, and time required for completion. If there are many more dam safety projects to be done after year 1986, as I assume there are, how will you prioritize them?

Response: A list of our ongoing and proposed dam safety projects (projects to be modified to meet current standards and knowledge under the Corps Dam Safety Assurance Program) is as follows:

Project	Type of Work to be done	Total Estimated Cost ($ Millions)	Completion Schedule
	Ongoing Projects - FY 1985		
Charles Mills Dam, OH (Muskingum River Lakes Project)	Raise dam and reservoir rim dike to preclude overtopping the dam or dike.	1.3	June 1985
Sardis Dam, MS	Addition of a berm along the upstream slope of the dam to stabilize the dam in the event of a major earthquake.	9.0	Dec 1987
Abiquiu Dam, NM	Lower spillway crest and raise embankment to preclude overtopping the dam.	2.2	June 1986
	Proposed Projects - FY 1986 Budget New Starts		
Addicks and Barker Dams, TX (Buffalo Bayou and Tributaries Project)	Raise main portions of embankments and armor lower ends of embankments to act as emergency spillways to preclude overtopping of main embankments.	15.0	Sept 1988

Barkley Dam, KY	Construct cellular cofferdam, excavate liquefiable material within cells, and replace with non-liquefiable material to stabilize the dam in the event of a major earthquake.	17.4	April 1988
Jemez Canyon, NM	Raise dam and widen spillway to preclude overtopping the dam.	3.3	Jan 1987
Mud Mountain Dam, WA	Raise dam and spillway chute walls to preclude overtopping the dam; construct a new intake tower to withstand a major earthquake; and construct a bridge over the spillway for access to downsream outlets during spillway use.	23.8	Sept 1988

In addition to the above projects specifically identified as Dam Safety Assurance new starts in the FY 1986 budget, a Corps-wide Remaining Budget item includes $4.0 million for Dam Safety Assurance new starts for projects which may be approved by FY 1986 as a result of studies now underway. The studies now underway are directed toward obtaining approval for FY 1986 Dam Safety Assurance new starts on six projects (Mohawk Dam, OH; Bolivar Dam, OH; Baldhill Dam, ND; Prado Dam, CA; Clearwater Dam, MO; and Durden Creek Dam, MS) identified by applicable Corps District and Division Engineers as ready for construction in FY 1986. The $4.0 million will be used to initiate construction in FY 1986 on any or all of these projects as may be approved.

There are 36 dam projects (including Sardis Dam, MS, and Abiquiu Dam, NM, started in FY 1985; the four projects specifically approved as new starts in FY 1986; and the six projects mentioned above as possible FY 1986 new starts dependent upon approval) which we have selected as the candidates most likely to require modification under the Dam Safety Assurance Program. As indicated, only six of these projects have been selected for modifications. Prioritization of the remaining 30 of the 36 projects not yet started nor specifically included in the FY 1986 budget will be established by giving the highest priority to the most seriously deficient projects in terms of their potential impact on human life and property damage, consistent with achieving the greatest overall reduction in risk with the limited resources available. A recently completed report by the National Research Council on a study of dam safety criteria is being analyzed to determine how recommendations therein might be integrated into the prioritization process.

Senator ABDNOR. Please provide a detailed explanation of how the Corps determines the level of maintenance expenditures which are classified as "commercial inland navigation" expenditures. Use FY 1984 as a case study and provide details of such expenditures for all commercial facilities of the inland system. Are any overhead costs included in this total? Personnel? Personnel-related?

Response. Commercial inland navigation projects fall into one of three categories. The classification of expenditures is determined differently for each of the categories. The following is a description of the categories with the associated rationale used to classify expenditures.

1. Projects authorized predominately for navigation purposes. Commercial inland navigation expenditures are the total project cost minus recreation specific costs.

2. Projects authorized for multiple purposes that had a cost allocation formula. Commercial inland navigation expenditures are the portion of the total project cost attributable to navigation based on the cost allocation formula.

3. Projects authorized with more than one purpose that do not have a cost allocation formula. Commercial inland navigation expenditures are the total project minus other purpose specific costs minus ninety percent and of joint use costs.

ARMY CIVIL WORKS PROGRAM
FY 1986 NEW STARTS: CONSTRUCTION
ELIGIBILITY, PRELIMINARY SELECTION, PRIORITIZATION AND SELECTION CRITERIA

ELIGIBILITY CRITERIA

1. Project is authorized for construction, or favorably recommended for implementation in a feasibility study with the Chief of Engineers pre-authorization report complete by 2 May 1984.
2. Project has net NED benefits at applicable interest rate, unless project authorization was not based upon formal benefit/cost evaluation.
3. Preconstruction planning fully funded by 30 September 1985.
4. Project provides mainline benefits.

PRELIMINARY SELECTION CRITERIA

1. Appropriate evaluation of project merits contained in Corps report.
2. Project is in compliance with the applicable environmental statutes, appropriate to the current stage of implementation.
3. Phase I GDM, Combined GDM, or Reevaluation Report approved by 1 July 1984.
4. Project cost and benefit estimates are firm, and when estimates are based on Phase II GDM studies, the Phase II GDM scheduled for approval by 1 August 1985.
5. If postauthorization change required, only routine issues involved.
6. No known or reasonably anticipated conditions or unresolved issues exist which might prevent project from being placed under construction by 30 June 1986.
7. Draft of Environmental Impact Statement (EIS) or supplement to be filed with EPA by 1 September 1984. Final EIS or supplement scheduled for filing with EPA by 1 August 1985 unless the project is subject to Section 404(r). If a section 404(b)(1) evaluation is required, the final EIS or supplement which contains the evaluation is scheduled to be filed with EPA by 1 May 1985.

PRIORITIZATION CRITERIA

Priority Group 1. - Projects with a benefit - cost ratio (BCR) greater than 1.0 at the current interest rate when only the mainline benefits of hydropower, water supply, commercial navigation, and flood damage reduction are considered.
Priority Group 2. - Projects with a BCR greater than 1.0 at the current interest rate when all benefits are considered, provided a significant amount of the benefits are in the mainline categories listed above.
Priority Group 3. - All other projects.

SELECTION CRITERIA (FOR PROJECT RECOMMENDATION)

1. Project meets the ELIGIBILITY AND PRELIMINARY SELECTION CRITERIA and is in Priority Group 1 and/or 2 indicated above, or other special conditions apply.
2. Project sponsor has indicated willingness to voluntarily provide the Department of the Army's new cost sharing guidelines, or local share under traditional policy is equal to or greater than required under the new guidelines.

Using FY 1983, the last year for which actual costs are currently available, the attached table details maintenance and operation expenditures for the above mentioned three categories of inland navigation projects. All figures include overhead, personnel, and personnel-related costs directly attributable to that particular maintenance function.

OPERATION & MAINTENANCE EXPENDITURES
FOR COMMERCIAL INLAND NAVIGATION
O&M, GENERAL, FY 83

CATEGORY	FY 83 ($000)
Project authorized predominately for navigation purpose	231,818.0
Multipurpose projects authorized for reimbursable purpose with cost allocation formula	146,360.7
Multipurpose projects authorization with more than one purpose but no cost allocation formula	23,320.9
TOTAL	401,499.6

Senator ABDNOR: What is the budget status of the Missouri River Basin towns which have been proposed for sale by the Corps? (Pickstown, SD, and Fort Peck, MT)?

RESPONSE: The FY 1986 budget for the townsites is as follows:

Pickstown, SD	$408,000
Riverdale, ND	513,000
Fort Peck, MT	577,000

It is possible that additional funding might be required depending on the progress of the transfer activities.

Senator ABDNOR: Mr. Dawson, on page 6 of your written testimony you state that with respect to the Administration's water resources bills "The level of Federal funding being retained for navigation is sufficient to assure that a national interest is preserved in the development of deep-draft and shallow-draft channels and harbors...". In this context do you mean by "the national interest" that these projects have a national benefit? If so, have the administration's cost recovery proposals been designed to reflect this benefit? How?

RESPONSE: The continued subsidy to navigation; specifically, the 30 percent Federal contribution to construction of new projects less than or equal to 45 feet in depth, and the 30 percent Federal contribution to operation and maintenance for ports less than or equal to 14 feet in depth and for those ports greater than 14 feet with less than 1 million tons of commerce annually reflect a balancing of a number of considerations including national security values, the desire not to disrupt unnecessarily existing trade patterns and harbor usage, and the incidental benefits of projects constructed and maintained for navigation.

Senator ABDNOR: Mr. Dawson, your statement points out for the feasibility phase of on-going studies beginning in FY 86 budget you show $8.6 million for continuing 47 of these studies which is one-half of the requirement. What do you propose to do if Congress does not implement such a sharing agreement or does not pass any legislation? Does this mean the studies are stopped or half done? Your conditional commitment with the five non-Federal entities as of 31 January 1985 specify they will cost share on whatever basis is agreed to by Congress. But what about the other 42 studies?

Response: If Congress does not pass any legislation requiring study cost sharing or does not preclude the Department from carrying out the plan presented in the FY 86 Budget, I expect to initiate study cost sharing early in FY 86. Should a study sponsor not wish to honor a conditional commitment made prior to that time, we will suspend the study. Likewise, if a formal commitment is not made during FY 86, the feasibility phase will not be started. In the event that legislation is enacted changing the study cost sharing formula of 50/50, I will of course implement that formula for all on-going feasibility studies as rapidly as possible. Finally, if the Department is precluded from implementing study cost sharing in FY 86 and Congress does not change the budget request for each study, I will try to make available sufficient funds to cover the non-Federal share so that each study can proceed on the best possible schedule.

Senator ABDNOR: Mr. Dawson, you clearly imply in your statement that if a local cannot cost share in the study cost that he would be unlikely to financially participate in project implementation. Hence, this study cost share is used as a screening device. However, I don't believe Congress intends to only protect the wealthy from floods and streambank erosion, for example. What allowance is made for such poor communities?

Response: To make allowances for poor communities we have included in our legislative proposal an "ability to pay" determination which would provide for Federal financing of the non-Federal share of project implementation costs. No special allowance for Federal financing of the non-Federal share of study costs has been proposed for a number of practical reasons. One, non-Federal sharing of study costs will test the commitment and seriousness of the sponsor of the study thereby reducing the number of studies of marginal merit and resulting in a better utilization of limited Corps resources. Two, the financial commitment required of the potential non-Federal sponsor would be rather limited since only one-half of the non-Federal contribution would have to be in cash. Finally, even in those few instances where study cost sharing may prove to be a financial hardship on a particular non-Federal sponsor, other options are available. For example, a state could provide financial assistance or even act as the sponsor. Therefore, we do not view our study cost sharing proposal as some sort of screening device which would discriminate against poor communities.

Senator ABDNOR: What will be the annual cost saving to the nation from postponing all new starts on the inland navigation system except one which were agreed to in S. 366? What are the foregone benefits from this postponement?

Response: Section 502 of Title V of S.366 would authorize 14 inland navigation system projects. One of these is Gallipolis Locks and Dam Replacement, which is included in the FY 86 budget for initiation of construction. The total implementation cost of the other projects in Section 502 is $869 million. There is no way of estimating the annual cost saving to the Nation from postponing these projects since there is no way to judge when or how much money would be available in future years for their construction, in what order they would be implemented or what the construction period would be. Likewise there is no way to estimate the foregone benefits from their postponement since they are also on an annual basis. If one assumes that all 13 projects were completed simultaneously, the estimated annual benefits would be $224 million.

Senator ABDNOR: You claim, Mr. Dawson, that you are seeking to recover 70% of th inland costs by imposing a new charge of 1.5 mills/ton-mile. In fact, with the continued collection of the gas tax (which goes to 10¢/gal. this October) you will in fact be recovering something close to 90% of the costs. Provide an estimate of the funds expected to be collected from both tax sources over the next five years.

Response: I will provide two tables for the record which show this information. The first shows ton-mile revenues rising from $218 million in FY 1986 to $298 million in FY 1990. The second table shows total fuel tax income rising from $76 million in FY 1986 to $85 million in FY 1990. In FY 1990, the total from both sources amounts to $383 million. I should point out that the FY 1986 Budget does not contemplate use of the fuel tax to help fund work on the Inland Waterway. However, Army's proposed Inland Waterway Development Act of 1985 would amend the present Inland Waterways Revenue Act to permit appropriation of collected funds for the new construction of navigation features on the Inland and Intracoastal Waterways.

[The information follows:]

INLAND WATERWAY TRUST FUND
(Dollars in Millions)

Fiscal Year	Tax Receipts	Interest Income	Total Income	Year-end Balance
1986	51	25	76	268
1987	52	28	80	348
1988	53	29	82	430
1989	54	28	82	512
1990	55	30	85	597
TOTALS	265	140	405	

Senator ABDNOR: Mr. Dawson, you claim in your statement that new 100% recovery of O&M for ports will not be unnecessarily disrupting to existing trade patterns or competitive relationships between ports. I'd like to see evidence to this fact. Provide information on the existing port use costs (all costs a vessel must incur--local, state and Federal--including costs from ocean to port) for a sample of small, medium and large ports on the West, East, Gulf, and Lakes. Show the absolute and percentage increase in costs which would be realized if the 100% solution is applied. How will these new fees change the competitive balance?

RESPONSE: A series of impact computations, similar to those you requested, were developed by a DOT/Corps of Engineers task group. These tables may be found at Enclosure 10. Table III displays typical port charges for a variety of cargo types which a vessel would likely incur. Charges are differentiated by geographic region.

Senator STAFFORD: What is the size of the project backlog?

Response: (The information follows).

As of 1 February 1985

CORPS OF ENGINEERS - CIVIL WORKS
UNFUNDED BALANCE TO COMPLETE AFTER FY 1986
ACTIVE AUTHORIZED PROJECTS

	No. of Proj.	Estimated Federal Cost ($000)	Allocations Thru FY 1985 ($000)	Budget FY 1986 ($000)	Balance to Complete	
					Scheduled ($000)	Unscheduled ($000)
1. CONSTRUCTION NOT STARTED:						
Projects in FY 1986 Budget	14	1,513,249	18,134	5,404	16,632	1,473,079
AE&D New Starts	1	734,000	0	250	3,950	729,800
Continuing AE&D	13	779,249	18,134	5,154	12,682	743,279
Projects not in Budget	100	5,820,876	76,764	0	0	5,744,112
No AE&D Required	5	266,885	0	0	0	266,885
AE&D Fully Funded	36	577,406	36,698	0	0	540,708
Continuing AE&D	36	3,627,346	39,996	0	0	3,587,350
AE&D Not Started	22	769,239	0	0	0	769,239
Restudy Funds Only	1	580,000	70	0	0	579,930
Total	114	7,334,125	94,898	5,404	16,632	7,217,191
2. CONSTRUCTION PROJECTS:						
Projects in FY 1986 Budget	136	16,714,429	9,316,852	828,861	3,686,556	2,882,160
Construction New Starts	29	684,536	33,237	44,740	605,909	650
Continuing Construction	95	15,787,803	9,197,037	743,304	2,965,952	2,881,510
Reimbursements	1	5,500	3,940	480	1,080	0
Major Rehabilitation and Dam Safety Assurance	11	236,590	82,638	40,337	113,615	0
Projects not in Budget	87	6,152,692	4,074,500	0	0	2,078,192
Continuing Construction	71	5,977,025	4,045,615	0	0	1,931,410
Reimbursements	13	33,567	22,005	0	0	11,562
Major Rehabilitation and Dam Safety Assurance	3	142,100	6,880	0	0	135,220
Total	223	22,867,121	13,391,352	828,861	3,686,556	4,960,352
3. MISSISSIPPI RIVER AND TRIBUTARIES:						
Projects in FY 1986 Budget	18	4,082,765	1,501,014	116,895	2,003,590	461,226
Continuing AE&D	3	140,400	4,311	1,345	3,844	130,900
Continuing Construction	14	3,933,365	1,496,603	112,050	1,994,346	330,366
Dam Safety Assurance	1	9,000	100	3,500	5,400	0
Projects not in Budget	15	768,564	188,293	0	0	580,271
Construction Not Started	2	52,498	1,235	0	0	51,263
Continuing Construction	12	676,066	149,458	0	0	526,608
Land Acquisition	1	40,000	37,600	0	0	2,400
Total	33	4,851,329	1,689,307	116,895	2,003,590	1,041,537

CORPS OF ENGINEERS - CIVIL WORKS
SUMMARY - ALL AUTHORIZED PROJECTS

	No. of Proj.	Estimated Federal Cost ($000)	Allocations Thru FY 1985 ($000)	Budget FY 1986 ($000)	Balance to Complete	
					Scheduled ($000)	Unscheduled ($000)
ACTIVE PROJECTS:						
Construction Not Started	114	7,334,125	94,898	5,404	16,632	7,217,191
Construction Projects	223	22,867,121	13,391,352	828,861	3,686,556	4,960,352
Total	337	30,201,246	13,486,250	834,265	3,703,188	12,177,543
DEFERRED PROJECTS	141	3,503,981	149,817	0	0	3,354,164
INACTIVE PROJECTS	395	6,139,820	262,488	0	0	5,877,332
MISSISSIPPI RIVER AND TRIBUTARIES:						
Active Projects	33	4,851,329	1,689,307	116,895	2,003,590	1,041,537
Deferred Projects	4	151,077	9,390	0	0	141,687

Senator STAFFORD: I understand that Corps of Engineers, through its laboratories, has assisted various local agencies in examining the condition of elements of our nation's infrastructure, producing both inventories and studies of conditions. The Corps, I understand, is developing these for drainage, water supply, and wastewater. Does the Corps have any plans for developing standard procedures for inventories and condition indices for other types of public works facilities? How does this fit in with your work on the National Council on Public Works Improvement?

RESPONSE: The Corps of Engineers is working with the Environmental Protection Agency and the Army Environmental Hygiene Agency using inspection techniques for evaluating military installations' water treatment and waste water treatment plants which includes the condition of each plant and its ability to comply with state and Federal standards. These techniques are currently in existence but may have to be modified for use in a national infrastructure inventory program. Under the Repair, Evaluation, Maintenance, and Rehabilitation (REMR) Program the Corps is developing techniques to determine the condition of all dams, hydroelectric power plants, locks, bridges, dikes, and flood control structures within the Army's Civil Works Program. However, these inspection/evaluation techniques will not be completed in time for use during fiscal year 1986. Another program developed by the Corps, named PAVER, is designed to uniformly rate the condition of various types of pavement, to track changes in condition and to evaluate alternative methods for upgrading pavements. PAVER is currently being used by several cities, and could be used in a national infrastructure inventory program. The Corps is not currently involved in any other work related to evaluating the condition of infrastructure facilities although it could become so under provisions of the National Public Works Improvement Act of 1984 (PL 98-501). Under PL 98-501, working groups could be formed to address segments of the infrastructure inventory, with membership representing both Federal and non-Federal agencies and organizations. Each working group could develop standard evaluation/inspection techniques and a cost estimating technique for estimating the cost of upgrading infrastructure facilities in its area of concentration to an acceptable standard. This approach should use and/or adapt a maximum amount of existing standards and techniques to both reduce cost and avoid duplication.

Senator BURDICK: Agriculture and waterway interests are concerned over the recent deregulation of railroads.

While user charges would have an effect on the volume of barge, rail, truck-barge, and rail-barge shipments, the biggest change is expected in the rail-barge shipments. It is expected that any further increases in barge cost would shift traffic to the railroads. This is especially true in States on the upper reaches of the transport system. Has the Corps considered the impact of user fee charges on different sections of the country? Will the user charges have the effect of increasing the number of areas which are captive to the railroads? To what extent will the water carrier's survivability in those areas be affected by user charges which result in such large traffic diversions? What will be the effect of increased user fees on farm incomes, farm foreclosures rates and average farm sizes?

RESPONSE: The effect of user charges on the barge industry and their customers has been the subject of numerous studies in the past decade. The weight of the evidence from these studies is that the increase in barges costs imposed by user charges would not have major disruptive effects on the waterway system and its users. Some shifting of traffic to railroads may occur if barge rates became higher than rail rates. However, several factors will mitigate against a significant shift in relative rates. First, rail rates will rise along barge competitive rail routes in relation to any increase in barge rates. As a result, rail rates may better approximate the true costs of rail transportation. Second, the barge industry itself will be encouraged to implement management efficiencies that will reduce the degree to which rates will rise in proportion to the user charge. Third, line haul transportation rates are only one component of the total transportation bill, which includes the investments made in the waterside infrastructure to permit barge movements. These investments will not be made economically obsolete by a modest increases in barge line haul rates. Rather, a portion of the user charge will be absorbed by grain handlers at transshipment points.

PROJECTED REVENUE FROM:

1.5 mills - per - ton-mile 1986-1991

Year	Projected ton-miles w/o fee (billions) [1]		Assumed Diversion [2]	Fee (Mills per ton-mile)	Ton-mile Revenue (millions)	Budget Est O&M + Construct'n [3] (millions)	Fee as % of O&M [4]
	Total w/w	Ton-mile seq.					
1979	217.1	197.4	N/A	-	-	-	-
1980	227.3	206.0	N/A	-	-	-	-
1981	231.2	208.5	N/A	-	-	-	-
1982	217.0	196.4	N/A	-	-	-	-
1983	225.6	205	N/A	-	-	-	-
1984	220.0	200	N/A	-	-	-	-
1985	220.0	200	N/A	-	-	-	-
1986	220.0	200	3% (194)	1.5	218 [5]	371	59%
1987	224,0	204	5% (194)	1.5	291	405	71%
1988	229.0	208	6% (196)	1.5	294	414	71%
1989	233.0	212	7% (197)	1.5	295	460	64%
1990	238.0	216	8% (199)	1.5	298	522	57%

1/The projections of inland waterborne are based on the assumption that the recent declines in traffic will stabilize in 1986. Earlier declines were caused primarily by a reduction in petroleum imports, the consequences of a world recession in the mid-70's, the Russian grain embargo which caused market adjustments by the USSR, and to a lesser extent the deregulation of the railroads. Projections hold at 1984-85 level. After 1987, a 2% growth rate is assumed.

2/The diversion rate is based on the DOT "205" study results of 9% diversion assuming a 50% rail response. No marginal diversion assumed in 1991 from increase of 0.2 mills.

3/Source: Background on major spending reforms and reductions in the FY 86 budget; plus new construction for Gallopolis.

4/Average recovery for 5 yrs is 64% of expenditures; if full year collections in 1986, the recovery level would be 68%.

5/Assumes collections for 3/4 of year only; full year collections would have been $291 million.

NOTE: These projections do not represent a definitive analysis, nor should be used for purposes other than observations of magnitudes of revenue expectations.

SOURCE: 1979 thru 1982 Waterbourne Commerce Statistics; 1983 is preliminary data from WCSC.

With these arguments in mind several conclusions about the effect of user charges can be drawn. First, the number of areas "captive" to railroads will not increase because overall relative rate differentials will not increase dramatically. More importantly, the waterway system will be maintained so the potential for waterway competition will always be present, whether or not there are actual barge movements. This argument is especially compelling because of the ease of entry into the barge industry.

Second, there will be some displacement of resources from the barge industry whether or not the fee is imposed. There has been excessive investment in the industry in recent years and fundamental economic forces, not user fees, will be the determining factor in the survival of firms in the industry. Of course, as export traffic increases, the future would look far more promising.

Third, it is true that many farm owners are in current financial difficulty. It is, however, unlikely that they will bear anything approaching the full cost of the user charge. The absorption of part of this charge by the barge transportation industry and the ability to pass some of the charge on to grain users will reduce the burden on the farm sector far below the impact suggested when the user charge revenue is put on a per bushel basis. This modest effect may reduce farm income slightly. However, the fundamental changes in farm structure and the foreclosure rates are the result of changing technology in agriculture and the highly leveraged debt structure some farms have developed. These factors will continue to be the dominant forces in the changing nature of agriculture, making the user fee impact insignificant by comparison.

Senator BURDICK: How does the national uniform tax proposed by the Administration impact various geographical areas of the country in terms of increased transportation costs? Will this tax cause a geographic imbalance with some farming states unable to compete in grain sales because of added transportation cost?

RESPONSE: A uniform national fee will minimize the differential impact on various geographic areas. This will be true because any resulting additions to transport rates will be nearly equal in each region, leaving relative rates the same both with and without the user charge policy.

Senator BURDICK: Besides farmers and commercial shippers, others benefit from this nation's waterways. Recent Corps of Engineers cost allocation studies for three districts including St. Paul, Pittsburg, and St. Louis indicated that of total waterway expenditures, possibly 25 to 30 percent were non-navigation costs such as those attributable to recreation, fish and wildlife, environmental quality, and flood control. These results are probably representative of non-navigation costs throughout the inland waterway system. What percentage of these costs should be borne by other groups besides the navigation users?

RESPONSE: Although our current cost recovery proposal does not require assignment of costs, earlier proposals did assign costs to inland navigation, taking into consideration only the authorized proposes of each project. In the case of single purpose navigation projects, we included all costs except those for recreation facilities maintained under the Corps generic authorities to provide recreation development. For projects authorized as multiple purpose, we followed the project-specific cost allocations developed for those projects which have historically reimbursable outputs - water supply and hydropower. For multiple purpose projects without project-specific allocations we included only navigation specific costs and a small share (10%) of project joint costs. For the Mississippi River and Tributaries project a 33-1/3 percent share of joint costs were included in addition to the specific navigation costs. Taken together these calculations assign to the navigation function only about 47 percent of the costs of all projects with inland navigation as an authorized purpose. It should be pointed out that for no Corps projects of any kind do we assign costs to incidental project beneficiaries. Only project purposes (beneficiaries) for which we are authorized to make expenditures are ever assigned costs or are required to share in the costs. The fact that a community may be able to construct a cheaper water supply structure as a result of the existence of a navigation pond is, in our view, not relevant to the cost assignment process.

QUESTION To what extent are the conclusions of the Section 205 Inland Waterway User Taxes and Charges study relevant to the current debate?

ANSWER The most important conclusion of the Section 205 study was "In sum, the implementation of inland waterway user charges is unlikely to be the dominant, or even a major, influence on the well-being of the groups involved over the next two decades." We believe that this, as well as the other major conclusions of the 205 study, is still valid and useful in the current debate.

The 205 report projected a growth rate of about 2.25 percent; more recent estimates project growth barely in excess of one percent for the balance of the century. This might suggest that the impact of the Administration's proposal will, thus, be more severe than the 205 study conclusions would indicate, because more money per ton-mile will have to be recovered.

The 205 study, however, examined the impact of recovering 100% of federal expenditures for operating and maintaining the waterways. In 1977 this averaged 1.1 mills per ton mile. Adjusted to 1985, using the GNP price deflator for government purchases of goods and services this becomes 2.0 mills. The Administration's 1985 combined inland Corps and Coast Guard user charge proposals seek to recover 1.75 mills. Together with the ten-cent-a-gallon fuel tax, this comes to approximately 2.0 mills, comparable to what was formerly proposed, after adjusting for inflation.

Some observers have suggested that the fuel efficiency estimates used by one of the contractors, Data Resources Inc. (DRI) were too low and that the results of the study were, thus, distorted. It has also been suggested that fuel efficiency has improved since the 205 report was done so that its findings may no longer be valid. At the time the 205 report was completed, IRS fuel consumption numbers implied an efficiency of 320 ton-miles per gallon. IRS figures now imply about 380 ton-miles per gallon.

Fuel tax increases are not now being proposed. Futher,the fuel consumption estimates did not effect 205 study results. In that study, the amount to be collected was calculated first and then converted to a fuel tax. If the fuel consumption estimate had been different, the tax per gallon would have been different, but the amount of tax to be paid for any movement would have been the same, and the impacts would have been the same.

Senator DOMENICI: The following sums are assumed in the Budget to be received from new user charges on the Corps program to offset some of the spending you have requested:

a) $160 million in inland water operations and maintenance fees;

b) $195 million in deep-draft operations and maintenance fees;

c) $33 million in fees as a result of construction and maintenance of the Mississippi River and Tributaries project;

d) $12 million in new deep-water construction work; and

e) $3 million toward the cost of one new inland waterway project.

What will be the impact on appropriations for the overall Corps program if that $403 million is not made available through new user charges? What will be the effect on the deficit?

Response: If the $403 million is not available there would have to be a serious reconsideration of the FY 1986 Civil Works program level and the distribution of funds. However, that is a decision which would have to be addressed based on the FY 1986 budgetary situation at the time it becomes clear that the user fees will not be able to contribute a reasonable share to the cost of the ports and waterways. I am as reluctant to speculate about the likelihood of future events as I am confident that, together the Administration and Congress would take appropriate action to assure that the priority operation, maintenance and construction activities occur. I do not think it would be wise to rule out consideration at the proper time of any appropriate alternative. The effect on the deficit would be nil since the work would not be performed unless the user fees were received. Whatever the case may be, I am pledged to work closely with Congress to address this concern.

Senator DOMENICI: Would you please provide me with information on the Alamogordo, New Mexico, flood control project. This project has been inactive for some time. As I understand it, the City wants to revive the project, and it has agreed to new cost-sharing arrangements. What is the Corps capability in Fiscal Year 1986 to move forward with the engineering on this project? Will that money require a cost-sharing agreement or can it be spent prior to a local cost-sharing agreement? When could the project be ready for construction?

RESPONSE: The General Design Memorandum for the authorized local flood protection project at Alamogordo, New Mexico was completed in 1966. Subsequently, work was discontinued and the project was classified inactive because the City could not give assurances of local cooperation due to the failure of a bond issue in 1974. In February 1979, because of renewed local interest due to recent nearby floods and required flood insurance, the project was reclassified to deferred status. It was determined in the status report accomplished under the Restudy of Deferred Project Program that the authorized project has reasonable economic justification, and is supported by the City of Alamogordo. The project was reclassified to active status on 24 September 1982. Due to development that has occurred on the project alignment since 1966, the project as orignially proposed is no longer practical. Alternate alignments or solutions will be addressed upon resumption of advance engineering and design.

The new start recommendation of the Acting Assistant Secretary of Army (Civil Works) to the Office of Management and Budget for Fiscal Year 1986 included funds in the amount of $450,000 to resume advance engineering and design studies. This project, however, was deleted from the President's

Budget because priorities precluded initiating more than a very limited number of new starts in the entire General Investigations program. A capability in the amount of $450,000, subject to the usual qualifications, has been established for Fiscal Year 1986 for the Corps of Engineers to resume advance engineering and design studies for this project. Following receipt of funds, a supplement to the General Design Memorandum will be initiated. The advance enginering and design studies will require 27 months to complete. The preparation of plans and specifications will require an additional nine months. A local cost-sharing agreement is not required to move forward with advance engineering and design studies. Ultimately, the City of Alamogordo would be required to cost share the cost of construction in accordance with the financing concepts proposed by the Department of the Army or adopted by the Congress. The project could be ready for initiation on or about Fiscal Year 1989.

Senator MOYNIHAN: How could the proposed program level for the Corps of Engineers be achieved if Congress fails to enact the new navigation cost sharing provisions of the Administration water bills?

Response: If the $403 million is not available there would have to be a serious reconsideration of the FY 1986 Civil Works program level and the distribution of funds. However, that is a decision which would have to be addressed based on the FY 1986 budgetary situation at the time it becomes clear that the user fees will not be able to contribute a reasonable share to the cost of the ports and waterways. I am as reluctant to speculate about the likelihood of future events as I am confident that, together the Administration and Congress would take appropriate action to assure that the priority operation, maintenance and construction activities occur. I do not think it would be wise to rule out consideration at the proper time of any appropriate alternative. Whatever the case may be, I am pledged to work closely with Congress to address this concern.

Senator MOYNIHAN: How were projects selected for authorization in the Administration's water bills? Why are four New York projects--Kill van Kull, Olcott Harbor, Coney Island, and Tonawanda Creek--all approved by the Chief of Engineers, not included?

Response: Only proposed projects that were approved by the Chief of Engineers and that were reviewed and cleared by my office and the Office of Management and Budget (OMB) were candidates for inclusion. As a result, the Kill van Kull and Tonawanda Creek projects were not candidates since the Kill van Kull project is presently being reviewed by OMB and the Tonawanda project is presently being reviewed by my office. In the case of Olcott Harbor and Coney Island, both of which have undergone full review by the Administration, the proposed projects were not included since both projects are designed primarily to provide recreational opportunities which has been determined to be inconsistent with this Administration's budget priorities and which is not in agreement with the Administration's policy to rely on the private sector to provide public services whenever possible.

Senator MOYNIHAN: Why are there two separate Administration water bills?

Response: Because of some of the unique and special issues applicable only to inland navigation, we decided to submit a separate inland navigation bill thereby permitting everyone to focus more particularly and specifically on those issues. The other water resources bill addresses ports and harbors, cost sharing, project authorizations, project modifications, and various general provisions.

Senator MOYNIHAN: Why is the Corps of Engineers not planning to perform remedial dredging of Fire Island Inlet? What are the long term options for stablilizing the inlet and keeping it open to navigation?

Response. The most recent survey of the Fire Island Inlet channel, which was made in December 1984, showed the existence of a natural channel with dimensions in excess of the authorized dimensions of 10 feet deep and 250 feet wide. However, alignment of the natural channel is such that vessels are exposed to broadside wave attack. Therefore, as an interim solution to the navigation problem at the inlet, the New York District is taking the steps necessary to prepare for a maintenance dredging contract to improve the channel alignment. Provided the required public interest review can be completed satisfactorily, a dredging contract could be awarded late this fiscal year.

Long term options for stabilizing the inlet and keeping it open to navigation are currently being investigated by New York District in the Fire Island Inlet Dynamics Study. A preliminary draft of that report has been completed and is under review. Options being considered include continued use of the existing navigation channel while inlet conditions are carefully monitored for three years, at which time final recommendations would be made, and a combination of dredging and structural measures designed to provide a dependable navigation channel while protecting adjacent beaches from erosion. In the interest of keeping all concerned parties informed of the progress of the study, copies of the study are available to the public; however, it must be stressed that the report is still preliminary and final recommendations have not yet been made.

Senator MOYNIHAN: What is the current status of the reformulation study for the Fire Island to Montauk Point project?

RESPONSE: Coastal and enginering studies are basically complete as well as economic base studies. The work remaining to be done is the economic and environmental anlysis of alternatives, and the selection of a single alternative and the detailed development of that plan which would result in a general design memorandum and environmental impact statement. The study was not funded in FY 85 nor is it in the President's Budget for FY 86. This is due to the lack of local cooperation for an otherwise approved interim protective construction project for the area's most critical reach at West Hampton Beach. The lack of local cooperation on the most critical reach casts a serious doubt on the public acceptability of the larger overall project.

Senator MOYNIHAN: When will the study be complete?

RESPONSE: If the study were funded at the maximum rate, it could be completed in June 1989.

Senator MOYNIHAN: What long term solutions to beach erosion on Long Island are being considered?

RESPONSE: Alternatives under consideration include all reasonable beach erosion control and hurricane protection measures. In addition to the authorized dune and beach placements, the alternatives include revetments, offshore breakwaters, tidal gates, ring levee and enclave type protection, and relocating or flood proofing structures. The alternatives also include a no action scenario and consideration of removal of existing groins.

Senator MOYNIHAN: What is the current status of planning and design for the Moriches Inlet project? When will the project be ready for construction?

RESPONSE: The plans and specifications for Moriches Inlet are complete. They were approved by the North Atlantic Division Office on 26 November 1984, thus making the project ready for construction insofar as engineering is concerned. However, the project has not yet been funded for construction. Such funding and consummation of a cost sharing agreement with local interests, to reflect whatever cost sharing is approved by the President and Congress, are prerequisite to initiation of construction. The project is not included in the FY 1986 President's budget as a new construction start.

Senator MOYNIHAN: The New York Harbor Collection and Removal of Drift project was authorized in 1974 and has an authorized limit of $28.75 million. The program has been tremendously successful in the elimination of hazards in the Port of New York and New Jersey and in helping to bring old urban waterfront property to a condition that enables fruitful economic and maritime development. However, the authorized funds could be used up as early as Fiscal Year 1987, with much of the project still unfinished. I sense that this is a project that has had the support of the Corps of Engineers. Is that true? If so, please advise of your intentions to seek additional authorization so that the entire project might eventually be completed.

RESPONSE: The Corps of Engineers is supporting the project by inclusion of $6,756,000 in the Fiscal Year 1986 budget request; however, the requirement for seeking new authorization increasing the funding limit has not been evaluated and won't be until some time in the future when it is necesaary to do so. At the earliest, the current limit won't be used up until Fiscal Year 1988.

Senator MOYNIHAN: When will the pre-authorization planning for the Arthur Kill-Howland Hook project be complete?

RESPONSE: The Division Engineer expects to transmit the report with his recommendations to the Board of Engineers for Rivers and Harbors (BERH) in November 1985.

Senator MOYNIHAN: When do you expect a report to be sent to Congress for project authorization?

RESPONSE: After the report is sent to the BERH for its review, the report will undergo further reviews by the Chief of Engineers, my office, and the Office of Management and Budget (OMB). I cannot predict with any assurance when these reviews would be completed.

Senator MOYNIHAN: No funds were requested for this project for Fiscal Year 1986. If the Corps of Engineers were given an appropriation of $200,000 for the project, what might be accomplished during FY 1986?

RESPONSE: If funds were appropriated in Fiscal Year 1986, they could be utilized for initiation of continuation of planning and engineering if the feasibility report contains a recommendation for project authorization.

Senator LAUTENBERG: Are you aware of the loss of life and extensive property damage which has resulted from the failure to solve the problems resulting from the deficiencies in the design of the Barnegat Inlet Jetties?

Response: Yes, we are aware, and we regret it very much.

Senator LAUTENBERG: Is it true that the Corps has stated that technically and legally this is a design deficiency?

Response: The Philadelphia District of the Corps, who conducted the studies of the Barnegat Project and prepared the report, did not recommend that the project be classified as a design deficiency, nor did the Board of Engineers for Rivers and Harbors. Both recommended that the modification be authorized as a new project. The Chief of Engineers did adopt his own staff's recommendation that the project be classified as a design deficiency. After an independent evaluation of the basis for classifying the project as a design deficiency, the Assistant Secretary of the Army determined that a design deficiency classification was clearly not justified based on:

1. The substantial success of the project in achieving the planned benefits, even though the inlet is dangerous at times.

2. The long time since the original construction, namely, 45 years.

3. The large cost of the modification, $36 Million, compared to an original cost of $750,000.

4. The Corps legal memorandum pointing out that, while the modification could be technically classified as a design deficiency, the justification for doing so is tenuous at best.

5. The effects on scores of other Corps projects nationwide, both legal and financial, and both existing and proposed.

Senator LAUTENBERG: If this is technically and legally a design deficiency, why does the Corps insist on not moving to construction until a new authorization is passed?

Response: We are no longer insisting on new authorization, and have so informed the local sponsor. The President's FY 1986 budget includes $1 Million for the Barnegat Inlet Project and proposes moving forward under existing authority. We are seeking reasonable cost sharing in fairness not only to our own policies, generally, which are a response to changing priorities and unacceptably large Federal deficits, but also in fairness to dozens of other sponsors nationwide, and to their own Congressmen.

Senator LAUTENBERG: Last year, the Congress provided an appropriation of $4 Million to get this project started. Why was that money not expended by the Corps?

Response: The FY 1986 budget proposal for Barnegat Inlet contemplates that funds included in the Conference Committee Report accompanying the Energy and Water Development Appropriation Act, 1985, will be allotted this fiscal year for start of construction of the project. The decision to allot the money awaits a mutually supportable agreement with the New Jersey Department of Environmental Protection, the project sponsor, on cost sharing for this $36 Million project.

Senator LAUTENBERG: Where does this project rank among dangerous shoaling problems on the Atlantic Coast?

Response: It ranks at or near the top. We know of only one or two in similar condition, for example, the Oregon Inlet in North Carolina.

Senator LAUTENBERG: A 1984 Fish and Wildlife Service Report, "An Assessment of the Corps of Engineers Section 404 Permit Program in Northern New Jersey 1980-1984", concludes that over 400 acres of wetlands were lost in this region during this period through the inappropriate administration of the Section 404 program by the Corps of Engineers and the Environmental Protection Agency.

(a) What is the Corps policy concerning enforcement of Section 404 violations?

Response: The Corps and EPA both have enforcement programs to handle unauthorized activities. We are committed to these efforts and typically expend more time and effort on an average enforcement action than we do on an average permit application. We are currently improving our enforcement regulations and our overall enforcement program; we hope to be able to devote more of our resources to enforcement in the future.

(b) The Corps regulations require that the agency give the views of the Fish and Wildlife Service and the National Marine Fisheries Service "full consideration." How does the Corps of Engineers comply with the "full consideration" requirement?

Response: We are required to coordinate with the U. S. Fish and Wildlife Service and the National Marine Fisheries Services on all our enforcement and permit actions. We recognize and respect their expertise in fish and wildlife matters and by our regulations must give their views full consideration in the public interest review process.

(c) What action has the Corps taken and what action does it intend to take in response to the report?

Response: Many of the wetland activities covered in the report were covered by nationwide permits or by permit decisions that have been sustained by the courts and the Memorandum of Agreement with U. S. Fish and Wildlife Service. Those activities covered by individual permits were subjected to full review and processing procedures according to Federal laws and regulations. As a result of the study, however, we are making some program improvements. Our New York District has begun monthly coordination meetings with the Fish and Wildlife Service and in the future the district will provide all agencies with feedback on their comments.

CUMULATIVE IMPACT ANALYSIS OF THE ADMINISTRATION'S CORPS OF ENGINEERS AND COAST GUARD INLAND AND PORT USER FEES

APRIL 25, 1985

Attached are tables which show the combined proposed user fees as percentages of the value of various commodities for selected movements, both domestic and international. Additional tables show the user fees in the context of all the various transportation and handling charges incurred by grain as it moves from various points of domestic origin to overseas markets.

What comes across clearly from this analysis is that the user fees represent very small fractions of the value of the commodities involved, less than one percent in most cases. The central conclusion has to be that the user fees are, by far, the weakest of the forces that are going to affect the well-being of shippers and receivers. Swings in the value of the dollar, of commodity prices, of fuel prices and a host of other factors will swamp any small effect the user fees might have.

List of Tables

TABLE I	This table presents representative commodities and movements and shows the aggregate of all the proposed user charges as a dollar amount per short ton and as a percentage of the delivered price of the commodity in question. The commodities and movements selected include domestic movements, as well as both imports and exports.
TABLE II	This table shows the impact of the Corps of Engineers and Coast Guard user fees for inland movements only.
TABLE III	The purpose of this table is to put the proposed port user fees in the context of the charges already paid for moving cargo through ports. With the exception of the liquid bulks, which entail very little charge as they are so very easy to handle, the proposed user fees would represent a very slight increment on the port charges already being collected.
TABLE IV	The three tables (IV-A, IV-B, and IV-C) give detailed information on the various charges and fees borne by grain moving from selected inland origins to Rotterdam and Yokohama. All the handling and transportation charges along the way, including inland and port user fees, are shown.

TABLE I

- CUMULATIVE IMPACT OF THE ADMINISTRATION'S PROPOSED USER CHARGE LEGISLATION: SELECTED COMMODITIES AND ROUTES

COMMODITY	ORIGIN/ DESTINATION	DELIVERED PRICE(DP)a/ ($/ST)	INLAND USER CHARGES b/				PORT USER CHARGES				CUMULATIVE USER CHARGE	
			COE		USCG		COE c/		USCG d/			
			$/ST	% DP	$/ST	% DP	$/ST	% DP	$/ST	% DP	$/ST	% DP
WHEAT	DAVENPORT/ NEW ORLEANS/ ROTTERDAM	$138.77	$1.57	1.13%	$0.26	0.19%	$0.26	0.19%	$0.07	0.05%	$2.16	1.56%
CORN		$115.24	$1.57	1.37%	$0.26	0.23%	$0.26	0.22%	$0.06	0.05%	$2.16	1.87%
SOYBEANS		$208.69	$1.57	0.75%	$0.26	0.13%	$0.26	0.12%	$0.07	0.03%	$2.17	1.04%
WHEAT	LEWISTON,ID/ PORTLAND,OR/ YOKOHAMA	$142.65	$0.56	0.39%	$0.09	0.07%	$0.28	0.20%	$0.07	0.05%	$1.01	0.70%
CORN		$120.56	$0.56	0.47%	$0.09	0.08%	$0.28	0.23%	$0.06	0.05%	$1.00	0.83%
STEAM COAL	GREEN RIVER/ LOUISVILLE	$44.80	$0.26	0.59%	$0.04	0.10%					$0.31	0.68%
STEAM COAL	NORFOLK/ ROTTERDAM	$44.65					$0.14	0.30%	$0.05	0.12%	$0.19	0.42%
STEAM COAL	BIRMINGHAM/ MOBILE/ ROTTERDAM	$41.08	$0.35	0.84%	$0.06	0.14%	$0.26	0.63%	$0.05	0.13%	$0.71	1.74%
FERTILIZER	TAMPA/ NEW ORLEANS/ DAVENPORT	$216.60	$1.57	0.73%	$0.26	0.12%	$0.31	0.14%			$2.15	0.99%
CRUDE PET.	PERSIAN GULF/ MARCUS HOOK,PA	$183.96					$0.24	0.13%	$0.06	0.03%	$0.30	0.16%

a/ Sources of data
1. All Grains - USDA, Office of Transportation, Grain Transportation Situation, 2/25/85
2. Coal - Coal Week International, 3/20/85
3. Fertilizer - Agricultural Cooperative
4. Crude Petroleum - Department of Energy; Monthly Energy Review, October 1984

b/ COE Inland Charge - 1.5 mills/ton-mile
USCG Inland Charge - Equivalent to about .25 mill/ton-mile

c/ The cost figure for Portland is reduced to about 28 cents per short ton of cargo as a result of the COE cap limiting local cost.

d/ The USCG tonnage fee is approximately 5 times the U.S. Customs Service fee (19 CFR 4.20). Assuming the fee is split equally between inbound and outbound ships in foreign trade,

TABLE II

Inland Waterborne Commerce:
Proposed User Fees for Selected Commodity Movements

Commodity	Typical Shipment Size[1/]		Average Segment Haul [2/]	Value of Tow[3/]	Proposed User Fees[4/]		Percent New Fees
	# of Barges	Total Tons	(in miles)	Thousands 1985 $	Per Ton	Per Tow	to Commodity Value
Grain[5/]	18	20,600	1,058	$3,307	$1.85	$38,141	1.15%
Steam Coal	12	18,000	374	806	0.65	11,781	1.46
Petroleum & Products [6/]	5	10,730	248	2,691	0.43	4,657	0.17
Basic Chemicals & Products[7/]	3	8,400	705	4,173	1.23	10,364	0.25
Iron & Steel Products[8/]	2	3,000	952	3,576	1.67	4,998	0.14
Logs and Lumber	-	3,000	64	536	0.11	336	0.06

1/Tow size varies significantly from river to river and many products (e.g., iron & steel products) typically move in "mixed" tows with other products.

2/Waterborne Commerce of the United States, 1982; Vol. 5, Table 3 - Domestic Traffic (for Internal Traffic); p. 82.

3/The 1982 Estimated Value of Waterborne Commerce; Research Report 84-R-2; U.S. Army Corps of Engineers, Engineer Institute for Water Resources; February 1984. Values are adjusted from 1982 to 1985 by BLS Producer Price Indexes.

4/Includes 1.5 mills per ton-mile fee to recover Corps of Engineers expenditures, plus .25 mill Coast Guard Fee.

5/Grain is composite of corn, wheat, and soybeans.

6/Petroleum and Petroleum Products is composite of crude petroleum, residual fuel oils, products, distillate fuel oil, jet fuel, kerosene, and gasoline.

7/Chemicals is composite of basic chemicals, benzene, sulphuric acid, and alcohols.

8/Iron and Steel products is composite of iron and steel ingots, plates, and pipe.

4/25/85

TABLE III

EXISTING PORT CHARGES PER SHORT TON BY MAJOR CARGO CATEGORIES

(1985 facility[1] and service[2] charges plus vessel entry fees[3])

REGION	GENERAL CARGO		NEOBULKS			DRYBULKS			LIQUIDS
	BREAKBULK	CONTAINER	STEEL	LUMBER	VEHICLES	GRAIN	COAL DIRECT	COAL VIA STORAGE	FUEL OIL
NORTH ATLANTIC	$47.80	$16.01	$13.54	$27.76	$24.33	$4.46	$1.38	NA	$0.58
SOUTH ATLANTIC	30.56	13.49	-	23.35	22.81	6.21	-	NA	0.54
GULF	28.02	13.96	10.71	24.97	-	3.25	2.50	$3.28	0.53
PACIFIC	42.12	19.60	14.87	30.49	29.50	5.94	4.78	6.28	0.74
GREAT LAKES	41.43	-	11.97	-	-	4.99	2.28	2.78	-
NATIONAL AVERAGES	$37.99	$15.77	$12.77	$26.64	$25.55	$4.97	$2.74	$4.11	$0.60

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[1] Facility charges include wharfage, dockage, and elevator or bulk terminal throughout charges.

[2] Service charges include receiving or delivery to inland carrier, ship loading or unloading, pilots, tugs, linehandling, inspections and supervision, and other services.

[3] Vessel entry fees include existing entry fee (6¢ per NRT) prorated for vessel itinerary, overtime for Government services, and agency fees.

TABLE IV-A

FARM PRICE FOR MARCH, 1985 USER CHARGES (PER BUSHEL)

WHEAT

ROTTERDAM		YOKOHAMA	
Average User Charge as a % of Delivered Price	1.5%	Average User Charge as a % of Delivered Price	1.4%
Delivered Price Rotterdam	$3.87/bushel	Delivered Price Yokohama	$4.07/bushel
Ocean Freight	0.25 5/	Ocean Freight	0.45 5/
Export Elevator Charge	0.08 3/	Export Elevator Charges	0.08 3/
Avg. Bid at Gulf	3.54	Avg. Bid at Gulf	3.54

ORIGIN	1/ AVG. BID AT GULF	2/ BARGE COST	3/ RIVER ELEVATOR COST	TRUCK COST	3/ ELEVATOR CHARGE	4/ BID AT INLAND ELEVATOR	INLAND USER CHARGE COE	USCG	NEW ORLEANS PORT USER CHARGE: COE/USCG
Minneapolis	3.54	.23	.04	.14	.04	3.09	.06	.01	.009
Davenport	3.54	.19	.04	.14	.04	3.13	.05	.008	.009
St. Louis	3.54	.12	.04	.14	.04	3.20	.035	.006	.009
Osceola	3.54	.10	.04	.14	.04	3.22	.02	.004	.009
Peoria	3.54	.18	.04	.14	.04	3.14	.04	.007	.009
Cincinnati	3.54	.14	.04	.14	.04	3.18	.05	.008	.009
Louisville	3.54	.13	.04	.14	.04	3.19	.04	.007	.009
Kansas City	3.54	.23	.04	.14	.04	3.09	.05	.008	.009

1/ U.S.D.A. - Grain and Feed Market News

2/ St. Louis Grain Exchange; first three weeks of March, 1985. Prepared by C.O.E., St. Louis

3/ Grain Industry and Elevator Operators

4/ The inland elevator bid, the price which the farmer receives, reflects the average bid at the Gulf minus the transportation and related charges of delivering the grain to the Gulf. The example assumes an inland elevator approximately 100 miles from the river. The grain moves by truck from the inland elevator to the river elevator.

5/ U.S.D.A. - Grain Transportation Situation

TABLE IV-B

FARM PRICE FOR MARCH, 1985 USER CHARGES (PER BUSHEL)

SOYBEANS

ROTTERDAM

Average User Charge as a % of Delivered Price	1.0%
Delivered Price Rotterdam	$6.49/bushel
Ocean Freight	0.25 5/
Export Elevator Charge	0.08 3/
Avg. Bid at Gulf	6.16

YOKOHAMA

Average User Charge as a % of Delivered Price	.9%
Delivered Price Yokohama	$6.69/bushel
Ocean Freight	0.45 5/
Export Elevator Charge	0.08 3/
Avg. Bid at Gulf	6.16

ORIGIN	1/ AVG. BID AT GULF	2/ BARGE COST	3/ RIVER ELEVATOR COST	TRUCK COST	3/ ELEVATOR CHARGE	4/ BID AT INLAND ELEVATOR	INLAND USER CHARGE		NEW ORLEANS PORT USER CHARGE: COE/USCG
							COE	USCG	
Minneapolis	6.16	.23	.04	.14	.04	5.71	.06	.01	.009
Davenport	6.16	.19	.04	.14	.04	5.75	.05	.008	.009
St. Louis	6.16	.12	.04	.14	.04	5.82	.035	.006	.009
Osceola	6.16	.10	.04	.14	.04	5.84	.02	.004	.009
Peoria	6.16	.18	.04	.14	.04	5.76	.04	.007	.009
Cincinnati	6.16	.14	.04	.14	.04	5.80	.05	.008	.009
Louisville	6.16	.13	.04	.14	.04	5.81	.04	.007	.009
Kansas City	6.16	.23	.04	.14	.04	5.71	.05	.008	.009

1/ U.S.D.A. - Grain and Feed Market News

2/ St. Louis Grain Exchange; first three weeks of March, 1985. Prepared by C.O.E., St. Louis

3/ Grain Industry and Elevator Operators

4/ The inland elevator bid, the price which the farmer receives, reflects the average bid at the Gulf minus the transportation and related charges of delivering the grain to the Gulf. The example assumes an inland elevator approximately 100 miles from the river. The grain moves by truck from the inland elevator to the river elevator.

5/ U.S.D.A. - Grain Transportation Situation

4/23/85

FISCAL YEAR 1986 BUDGET REVIEW

THURSDAY, MARCH 14, 1985

U.S. Senate,
Committee on Environment and Public Works,
Washington, DC.

General Services Administration

The committee met, pursuant to notice, at 10:05 a.m., in room SD-406, Dirksen Senate Office Building, Hon. Robert T. Stafford (chairman of the committee) presiding.

Present: Senators Stafford, Chafee, and Bentsen.

Senator **Stafford**. The Committee on Environment and Public Works will please come to order.

I am delighted that my friend and partner, Lloyd Bentsen, is here, because this gives us a chance to announce that the selection for membership on the subcommittees of our full committee have been made after numerous consultations between the majority and minority staff directors, members of the committee, and between Senator Bentsen and myself.

I can say without going into full detail that we are retaining the same six subcommittees with the same jurisdictional areas that we had in the 98th Congress. Committee rules require us not to demote a member of the committee who chaired a subcommittee in the last Congress. That means that the previous six subcommittee chairmen will continue to be the subcommittee chairmen again this Congress. I think Senator Bentsen and I agree that everybody is at least reasonably well satisfied with their subcommittee assignments.

Senator **Bentsen**. Mr. Chairman, I want to thank you for your cooperation and the help of the staff. I am delighted to see people having a chance to be on subcommittees in which they have the deepest interest and hopefully, therefore, will be more productive.

Senator **Stafford**. Thank you. I hope the same and we will have the official committee appointment legislation before the Senate this afternoon.

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator **Stafford**. This morning, we are going to be working on public buildings programs and the program and policies of the General Services Administration. With an annual budget of $2.4 billion, the Public Buildings Service deserves the attention and the oversight that this committee has devoted to it in the past and is willing to again. The Public Buildings Service, with more than 13,000 Federal employees, manages almost 8,000 Government-owned and leased buildings throughout the country.

These hearings will provide the basis for the development of a bill to authorize funds and line item projects for fiscal year 1986. This year will be the sixth time the committee has met its responsibilities to authorize public buildings projects through an annual bill reported to the Senate in lieu of the piecemeal approval by committee resolutions. While not consistent with House procedures, this method of authorization has been honored by the Appropriations Committees and, in the view of this Senator, is really the only logical way to go.

An annual authorization bill is, in my view, the appropriate vehicle for rendering judgment on the proposed activities of the Public Buildings Service. Such a bill imposes on GSA the discipline required to plan and submit an annual program and provides the agency with a clear record of committee expectations. It also enables both the committee and GSA to address the goals and accomplishments of the agency in a broader context than is possible when individual projects are considered one at a time.

We are very glad to welcome Dwight Ink, the new Acting Administrator. Mr. Ink has a great record of Government service that spans some 30 years.

We are also glad to have with us William Sullivan, the new Commissioner of Public Buildings, and Charles Davis, the Associate Administrator for Operations. Mr. Sullivan brings to the Public Buildings Service experience as a former Associate Deputy Administrator for Logistics at the Veterans Administration. We welcome him to this new assignment.

Finally, Richard Haase, whom I expect needs no introduction to this committee, will testify. My colleagues will recall that Mr. Haase served as Commissioner of Public Buildings prior to last year. In that capacity he appeared before our committee, and this morning we will welcome him back.

Senator Stafford. Senator Bentsen, do you have any opening statement?

Senator BENTSEN. Yes, if I might, Mr. Chairman.

Senator STAFFORD. Certainly.

OPENING STATEMENT OF HON. LLOYD BENTSEN, U.S. SENATOR FROM THE STATE OF TEXAS

Senator BENTSEN. I am certainly pleased to be with the representatives of the General Services Administration.

I note, in contrast to other agencies under our jurisdiction, that the proposed budget of the Public Buildings Service is up about 6 percent over last year's appropriated levels. It is my understanding that this is brought about principally by a 59-percent increase in capital accounts, which is new construction, repairs, and alterations, and design and construction services accounts I look forward to examining this budget and this program today, and I particularly look forward to hearing from Mr. Ink and from Mr. Sullivan on their perceptions of their role in the development of project objectives and long-range goals.

Mr. Chairman, you know this committee of ours has succeeded in each of the last three Congresses in getting major public buildings reform legislation through the Senate only to have it stop dead when it gets to the House. It is my hope that we on this committee will be able to work together in this Congress to get some of these reforms enacted so that the public buildings program can proceed on a more coherent and logical course than it has in the past. I think that is of great importance to this agency, because it affects the capabilities of all the other agencies of Government in being able to do their jobs.

Thank you very much.

Senator STAFFORD. Thank you, Senator Bentsen.

I certainly join you in the hope that, with Administration support for this bill, we can finally get the House to agree to following a more logical procedure than that which they have pursued over the years.

Senator Chafee, so you have an opening statement?

Senator CHAFEE. No, I don't. Thank you, Mr. Chairman.

Senator STAFFORD. All right. Mr. Ink, we would be very happy to hear any statement you care to make.

STATEMENT OF DWIGHT INK, ACTING ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION

Mr. INK. Mr. Chairman and members of the committee, I am please to have the opportunity to appear briefly here at this hearing concerning the programs and policies of the Public Buildings Service. I have been serving as Acting Administrator of GSA only since March 4 and am now in the midst of my second week in that capacity and, therefore, will confine my remarks to a few introductory comments.

It is good to recognize some of my former colleagues and friends both in GSA and on the committee. Ten years ago, I did serve as Deputy Administrator and, for a short time, as Acting Administrator. I had the opportunity to work very closely with this committee. Bailey Guard and I have worked together on a number of occasions over the years.

Having been away for a period of time, I have an opportunity that not many people have of coming back and looking at an organization after a passage of time. I have been very pleased at the significant progress that I think has been made by GSA in a number of areas. Jerry Carmen and Ray Kline deserve considerable credit for the leadership they have provided for the fine staff at GSA and a stronger staff than they have often been given credit for.

Substantial improvement in customer relations is evident. An example of that is the Public Buildings Service pilot delegation program which allows Federal agencies to operate and maintain their own headquarters buildings in the Washington, DC, area and assume responsibility for the services to their own employees. This program has improved customer satisfaction and, as far as I can tell, without loss of efficiency. It is expected to expand to some 14 agencies during the coming year.

I think this is much more in keeping with the original concept of GSA. In the past, a number of us have been concerned that GSA has become so preoccupied with day-to-day direct operational details that it has had difficulty in devoting adequate attention to developing policies, the kind of things that your opening comments were referring to, which would assist agencies in carrying out their responsibilities as well as GSA responsibilities.

Clearly, GSA has, in recent years, established a more businesslike approach to the conduct of its affairs, including a cooperative effort between the Public Buildings Service and the Office of Information Resources Management in GSA to incorporate advanced building systems, office automation, and telecommunications technologies into Federal buildings. These, of course, contribute to employee productivity and provide more flexible, energy-efficient workspace.

Finally, an increased cost consciousness is noticeable throughout the organizations and the groups that I have had occasion to meet and visit with during the short time I have been back with GSA. Workspace per Federal employee has been reduced each year since 1981 with substantial savings to the taxpayer. GSA itself has reduced its own workspace to 135 square feet per employee, which was considered by many unreachable a few short years ago.

GSA today is delivering quality goods and services in a more timely manner with reduced overhead costs and by continually exploring new ways of doing more with less. I was particularly interested in the costs of the hammers I saw on the marketbasket comparison which seemed to be very reasonable. However, the agency is properly focusing much more on what remains to be done than on what it has accomplished to date. I think everyone recognizes that there are a good many challenges still facing GSA. The important point here is, in my view, the staff is much better equipped today to meet those challenges than when I was last here.

I look forward to serving as Acting Administrator of GSA in the absence of a permanent Administrator. We expect a permanent Administrator to be submitted and confirmed in the near future. During this period, however, we will work very closely with this committee.

As you indicated, Mr. Chairman, we do have with us today our new Commissioner of the Public Buildings Service, Bill Sullivan, who will be followed by Terry Davis, our Associate Administrator for Operations. They have provided the committee with statements and will be pleased to answer your questions.

Senator Stafford. Thank you very much, Mr. Ink. I have a couple of very brief questions to ask.

While you were with the National Academy of Public Administration, did you conduct a study of the Office of Operations at GSA? If you did, did you reach some conclusions and recommendations?

Mr. INK. We did make a study of the General Services Administration and made some recommendations. Those recommendations, however, did not relate to individual offices. They related to the program and its relationship with other agencies. Those recommendations, in general, were in the direction in which GSA is now moving.

Senator STAFFORD. In view of your career of distinguished service in the Government as an administrator, do you have any legislative remedies of your own that you might suggest to enable GSA to function more efficiently?

Mr. INK. Several of the items that you referred to, of course, we are looking at as part of the President's program. I think that most of the improvements in GSA, however, are brought about without legislation. I think what GSA has needed, over the years, has been first and foremost a level of professionalism in the leadership area which has continuity. This is the area about which I am most pleased because the kind of professionalism I see represented by Mr. Sullivan, for example, and the Commissioners and their top staff is much, much stronger than what we had when I was here before.

Senator STAFFORD. Thank you very much.

Senator Bentsen, do you have questions?

Senator BENTSEN. Yes, thank you.

Mr. Ink, what has happened in the ITC building? I know that apparently the Smithsonian won that fight, but how are you resolving the problems of the ITC?

Mr. INK. Senator, if I could, I would like to defer that to the Commissioner of Public Buildings. I am just in the process, having arrived last week, of beginning to find out what the different building problems are.

Senator BENTSEN. Well, I guess that takes care of my next question, too.

Thank you.

Senator STAFFORD. Senator Chafee?

Senator CHAFEE. My question deals with public buildings also.

Senator STAFFORD. All right.

Thank you very much, Mr. Ink, for joining us this morning and good luck with your responsibilities. We appreciate your being here.

Mr. INK. Thank you very much, Mr. Chairman.

Senator STAFFORD. Our next witness will be our new Commissioner of Public Buildings Service, Mr. Sullivan.

You might just name those who are with you, Mr. Sullivan so the committee will know who they are, and the record will show that they are here.

STATEMENT OF WILLIAM F. SULLIVAN, COMMISSIONER, PUBLIC BUILDINGS SERVICE, GENERAL SERVICES ADMINISTRATION, ACCOMPANIED BY, IRA JEKOWSKY, ASSISTANT COMMISSIONER FOR POLICY AND PROGRAM SUPPORT; WOLFGANG ZOELLNER, ASSISTANT COMMISSIONER FOR BUILDINGS MANAGEMENT; WILLIAM LAWSON, ASSISTANT COMMISSIONER FOR DESIGN CONSTRUCTION; DAVID BIBB, ACTING ASSISTANT COMMISSIONER FOR SPACE MANAGEMENT; AND ALFONSE IUDICELLO, DIRECTOR, PUBLIC BUILDINGS SERVICE PLANNING TASK FORCE

Mr. SULLIVAN. Good morning.

I am accompanied by Ira Jekowsky to my left who is Assistant Commissioner for Policy and Program Support; Al Iudicello, to my far right, who is the Director of PBS Planning; and Wolfgang Zoellner, who is Assistant Commissioner for Buildings Management, to my immediate right.

Senator Chafee. Who is on your immediate right?

Mr. Sullivan. Wolfgang Zoellner.

Senator Chafee. Who is on your far right?

Mr. Sullivan. Al Iudicello. He is the Director of Planning.

Senator Chafee. OK. Thank you.

Mr. Sullivan. I have a full statement which, with your permission, Mr. Chairman, I would like to have submitted for the record. Then I would like to make some briefer remarks excepting from the complete statement.

Senator Stafford. Without objection, we will place your full statement in the record, and you may proceed as you wish.

Mr. Sullivan. Thank you.

Mr. Chairman and members of the committee, it is a pleasure for me to appear before you today to discuss the 1986 budget for the Public Buildings Service.

I have only been Commissioner for a little over 3 weeks, so my remarks today are only preliminary impressions. I offer them as insights to the committee based on my early observations of the Public Buildings Service.

I want to commend the staff of the committee for their courtesy and for the information they have shared with me regarding their perceptions of PBS operations.

My experience at the Veterans' Administration, where I ran the construction program, which, incidentally, was a larger program than GSA's current construction program, and my brief tenure at GSA have led me to three basic conclusions with respect to Federal real property management.

First, there is a need for more substantive long-range planning for Federal facilities. Today, typical planning systems appear loosely structured and oriented to short term solutions, with decisions made on a project by project basis, rather than based on a nationally prioritized program.

Second, we need improved data bases on which to justify individual projects and to set priorities among projects. Without accurate data, it is difficult to assess the relative merits of project proposals and to apply limited resources in the most effective manner.

Finally, the end users of the project, for example, the tenants in a new Federal building, are often overlooked in decisionmaking. Not surprisingly, this can result in dissatisfaction with both the process and the product.

There are a number of issues that we need to address in order to work toward eliminating these problems. The Cabinet Council on Management and Administration's Real Property Management Task Group, which was just approved by the President, incidentally, 1 week ago, identified several actions to improve the way the Government manages its capital assets. These recommendations include improvement of agency real property plans and integration of these plans with the budget process; improvement in communications between PBS and its clients regarding how Federal buildings fund resources are allocated; and strengthening of the GSA oversight and review process for management of general purpose space, with concurrent transfer or responsibility to agencies for acquisition and management of specialized and isolated locations.

GSA will be working closely with the Office of Management and Budget and other agencies in the upcoming months to implement these changes. In addition, we will be working with OMB to develop a management initiative to task agencies to develop real property plans, including prioritization of their space needs, and to tie the call for these plans to the budget process.

We will be developing a locational policy designed to minimize our housing costs by satisfying client agency program requirements in the least expensive space possible, consistent with agency missions. Wherever compatible with agency requirements, GSA will endeavor to locate new leases in lower cost rental areas rather than higher cost central business areas of major metropolitan communities.

We will be examining the impact of increasing delegations of authority to our clients, both for the acquisition and operation of space. In general, I believe GSA needs to adopt more of a policy role in managing real property and allow agencies to assume increased responsibility for managing the buildings they occupy, particularly those in which they are the sole tenant.

In the design and construction area, GSA needs to examine some of the more innovative private sector design and construction techniques, such as the use of computer-aided design for development of prototype facilities and increased use of the design-build concept which requires only one contract for both design and construction of a project. These techniques could greatly enhance our ability to deliver projects faster and at a potentially reduced cost as a result of the timesavings and standardization from these techniques.

We also plan to review PBS's legislative authorities. In that regard, I am personally generally supportive of recent Senate-passed public buildings legislation. In fact, I found this legislation very instructive in my early days at PBS. I must add, however, that I believe the legislation may be a bit too detailed in the definition of criteria for prioritizing projects. This could tend to restrict GSA's ability to consider additional factors not specified in the legislation. We are examining the Senate bill in more detail and will work with the committee over the next few months on any refinements we think might improve this legislation.

I look forward to working with the committee on these initiatives and hope to make a positive contribution to the management of Federal property.

This concludes my remarks.

If we could have your permission, Mr. Chairman, we have a little presentation here of the budget. It is an overview and should take between 5 and 10 minutes. We can do that or we can move right into questions, whichever you prefer.

Senator Stafford. All right. Thank you, Mr. Sullivan. I particularly caught your sentence where you said that you will work with the committee over the next few months on refinements that might improve legislation. I would urge you, if you can, to make that immediate, because it will be the committee's intention to want to get a bill put together very quickly. We need to get it done before we get into very serious problems involving budget and tax reform and so on, which are likely to tie up the Senate for extended periods.

Mr. **Sullivan**. That is very high on my agenda, Mr. Chairman, so I will try to do that in the next several weeks.

Senator **Stafford**. I didn't mean to interrupt you, but I wanted to make sure you understood there is a certain amount of urgency here. We would be glad to go ahead now with the display.

Mr. **Sullivan**. Thank you. Ira Jekowsky will lead the presentation.

Senator **Stafford**. All right.

Mr. **Jekowsky**. Thank you, Mr. Chairman.

This morning's presentation is designed to give you a background and overview of our fiscal year 1986 budget request.

TABLE IV-C

FARM PRICE FOR MARCH, 1985 USER CHARGES (PER BUSHEL)

CORN

ROTTERDAM

Average User Charge as a % of Delivered Price	1.7%
Delivered Price Rotterdam	$3.34/bushel
Ocean Freight	0.23 5/
Export Elevator Charge	0.08 3/
Avg. Bid at Gulf	3.03

YOKOHAMA

Average User Charge as a % of Delivered Price	1.6%
Delivered Price Yokohama	$3.53
Ocean Freight	0.42 5/
Export Elevator Charge	0.08 3/
Avg. Bid at Gulf	3.03

ORIGIN	1/ AVG. BID AT GULF	2/ BARGE COST	3/ RIVER ELEVATOR COST	TRUCK COST	3/ ELEVATOR CHARGE	4/ BID AT INLAND ELEVATOR	INLAND USER CHARGE COE	INLAND USER CHARGE USCG	NEW ORLEANS PORT USER CHARGE COE/USCG
Minneapolis	3.03	.22	.04	.13	.04	2.60	.06	.01	.009
Davenport	3.03	.18	.04	.13	.04	2.64	.04	.007	.009
St. Louis	3.03	.11	.04	.13	.04	2.71	.03	.006	.009
Osceola	3.03	.09	.04	.13	.04	2.73	.02	.004	.009
Peoria	3.03	.17	.04	.13	.04	2.65	.04	.007	.009
Cincinnati	3.03	.13	.04	.13	.04	2.69	.05	.008	.009
Louisville	3.03	.12	.04	.13	.04	2.70	.04	.007	.009
Kansas City	3.03	.22	.04	.13	.04	2.60	.05	.008	.009

1/ U.S.D.A. - Grain and Feed Market News
2/ St. Louis Grain Exchange; first three weeks of March, 1985. Prepared by C.O.E., St. Louis.
3/ Grain Industry and Elevator Operators
4/ The inland elevator bid, the price which the farmer receives, reflects the average bid at the Gulf minus the transportation and related charges of delivering the grain to the Gulf. The example assumes an inland elevator approximately 100 miles from the river. The grain moves by truck from the inland elevator to the river elevator.
5/ U.S.D.A. - Grain Transportation Situation

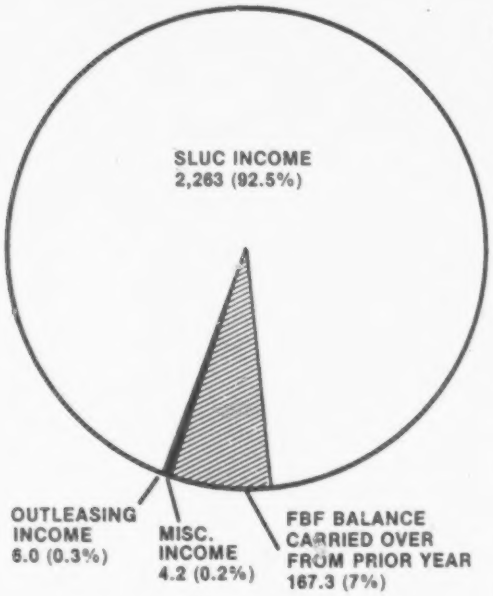
4/25/85

FEDERAL BUILDINGS FUND

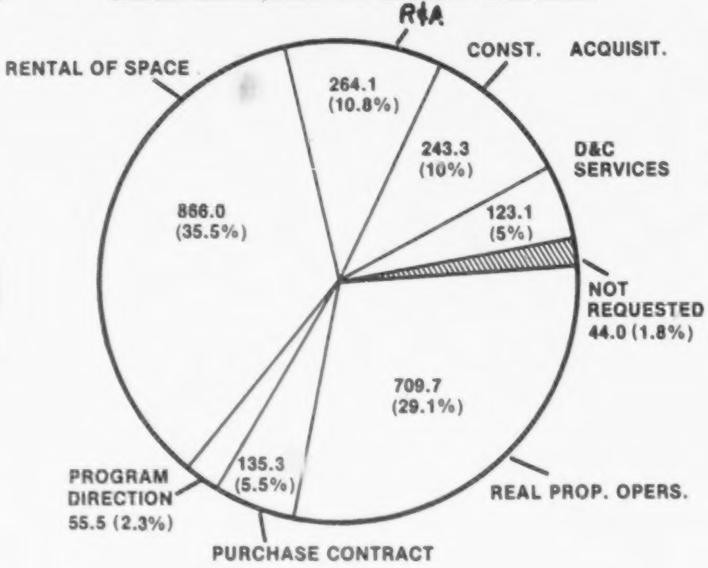
SOURCE AND APPLICATION OF FY 86 FUNDS

($ MILLIONS)

TOTAL AVAILABLE RESOURCES: $2,440.



APPLICATION OF RESOURCES: $2,440.9



Mr. **Jekowsky**. As a preliminary to the presentation, I wanted to point out to the committee the last 25-year trend in Federal employment. As you can see from this chart, since 1960, the size of the Federal Government housed in GSA space has more than doubled. The chart to my left, therefore, shows you the upward demand for space inventory.

Mr. **Jekowsky**. That growth over the 25-year period has led us to a change in our inventory mix. As you can see, in 1960, 65 percent of our space was occupied by employees housed in Government-owned space and only 35 percent in leased space. As the trend line shows you, coming into fiscal year 1985, that mix has changed substantially in that we only have 53-percent Government-owned space and an increase to 47 percent of leased space.

Senator **Chafee**. Could I just ask a question, Mr. Chairman?

Senator **Stafford**. Sure.

Senator **Chafee**. I don't get the significance of the first chart. If somebody isn't housed by GSA, who are they housed by? You say the Federal population housed by GSA over the 25 years more than doubled. What is the alternative to being housed by GSA?

Mr. **Jekowsky**. Other agencies, such as the Defense Department, the VA, et cetera, provide additional space to house their employees. However, we are the primany providers of office space.

Senator **Chafee**. That is what I thought. I thought that if the Department of Labor has an office in Boston, that is in GSA space, isn't it?

Mr. **Jekowsky**. That is correct, Senator.

Senator **Chafee**. So, what is the significance of the first chart? Is it just a change of rules that have put this space under GSA as opposed to, for instance, being under the Defense Department or, for instance, in Crystal City, where the Navy is renting space, would you call that housed by you or housed by the Navy?

Mr. **Jekowsky**. That is housed by us.

The significance of the chart, Senator, is to show you the mix of our space between owned and leased.

Senator **Chafee**. I understand the second chart, but the first chart, I am just not sure. Is the purpose of the first chart to show that you have undertaken greater responsibilities?

Mr. **Jekowsky**. That is correct.

Senator **Stafford**. Let me come back to Crystal City and the Navy. Did you say that the Navy's housing in Crystal City is under GSA or is that Navy or military?

Mr. **Jekowsky**. That is leased space under our assignment and control.

Senator **Stafford**. I see. OK. Thank you.

Senator **Chafee**. Is the first chart related to the fact that there are more Federal employees?

Mr. **Jekowsky**. Yes, Senator.

Senator **Chafee**. The answer is yes?

Mr. **Jekowsky**. Yes; that is correct.

Senator **Chafee**. I thought that since 1980 the number of Federal employees had remained constant or even decreased a bit.

Mr. **Jekowsky**. These numbers show the increase in those Federal employees housed within GSA controlled space, not overall Federal employment.

Senator **Chafee**. OK. I just am not sure.

Mr. **Sullivan**. We apologize for confusing the committee.

Senator **Stafford**. John's confusion, and mine, is that, obviously, you are housing more people in buildings that are under your control, but that really has nothing to do with the number of Federal employees, does it? Or whether that total number has gone up or gone down?

Mr. **Sullivan**. There is some relationship, but certainly it isn't a 1-to-1 ratio.

Senator **Stafford**. From that chart, we have no way of knowing what the total Federal employment might be either in 1980 or in 1985.

Mr. **Sullivan**. That is correct.

Senator CHAFEE. Let me just ask one last question, and then I will be quiet on this subject. Is there a trend in the Federal Government, from the departments themselves, to phase out housing their people and having you house them? For instance, how would somebody get from a Navy housing to your housing? What makes that happen?

Mr. SULLIVAN. I think it is quite the contrary. In fact, we are probably housing fewer people in recent months than the reverse situation. In other words, we are delegating more buildings to other agencies to house folks.

Senator CHAFEE. That isn't what the chart shows.

Mr. SULLIVAN. No, it doesn't, but that is just a recent phenomenon.

Senator CHAFEE. Well, the chart goes to 1985. It must be a very recent phenomenon.

Mr. SULLIVAN. It is very recent.

Senator BENTSEN. What is the number down at the very bottom?

Mr. JEKOWSKY. 1960.

Senator BENTSEN. 1960, and you tell me it is a recent phenomenon, and it goes from 1960 to 1985?

Mr. SULLIVAN. No, what I am saying is that we are delegating more Federal space. It is a slight decline because the administration has a program to delegate more buildings to other agencies. This is something we will be doing more of. We have just embarked on that. We have delegated approximately 20 buildings to date to other agencies. So, that is something that is a recent phenomenon. We will be doing more of that. So, possibly you will see this chart change when we come up here next year. I am not sure we will use this chart. In fact, I am quite sure we won't, but if we were to, we would begin to see a different direction on it.

Senator BENTSEN. The philosophy is that in some way the taxpayer gets a better job done, if you don't have control of the buildings?

Mr. SULLIVAN. That is correct. We feel that, in certain cases where the agencies have the resources, the personnel, and so forth, to manage a building that they are going to do a better job because they are actually closer to it. They can get quicker service. It also gives them a sense of responsibility over their own building.

We have experimented with that recently, as I said, and found it fairly successful. So, we are embarking on doing more of that within the next year. We will continue to monitor the program to make sure that it is cost effective and work with OMB to audit the way these delegations to other agencies are working, but we believe it is a positive step. It can get GSA out of some of the housekeeping things which we have gotten bogged down in during previous years, and we can devote ourselves to a role of more policy oversight and guiding the agencies as to how they should be running their own buildings.

Senator BENTSEN. Do you mean that if you had a building with courts and judges in it they would have charge of that building?

Mr. SULLIVAN. It is possible. We are looking at this on a case-by-case basis, and it would have to be a single tenant building. In other words, one agency would control the entire building. Multifacility buildings where there are a number of agencies would still be run by GSA.

Senator CHAFEE. Mr. Chairman, I don't know whether I am for or against the policy. I think it probably makes some sense that the people who are closest to it would run it best, it is a departure from a policy that has been in effect for a good long time and, indeed, I thought was the GSA that should be running these buildings. You are taking quite a dramatic, although cautious, turn from what has been the philosophy guiding GSA for a good number of years. Isn't that right?

Mr. SULLIVAN. This is true. It has been an experiment thus far, but we think that it has proven successful.

Senator BENTSEN. Mr. Chairman, I agree with Senator Chafee. Have we had hearings on this change in policy?

Senator STAFFORD. I don't ever recall that this specific matter has come up, no.

Senator BENTSEN. I think that is a very dramatic change, and I am not sure that I am for it, either.

Mr. SULLIVAN. We would be pleased to brief the committee and discuss the benefit of what we have found thus far.

Senator STAFFORD. Mr. Sullivan, let me come back to the Navy and Crystal City just for understanding the situation. That is leased space, is it, that you lease for the Government?

Mr. SULLIVAN. Yes.

Senator STAFFORD. And that is turned over to the Navy for management. Am I correct on that?

Mr. SULLIVAN. If they control the entire building, theoretically, we could turn over the management of the building to them.

Senator STAFFORD. You have not done that yet?

Mr. SULLIVAN. No.

Senator STAFFORD. Assuming you do, then Navy has to furnish all the janitorial services and everything else. Is that right?

Mr. SULLIVAN. That is correct.

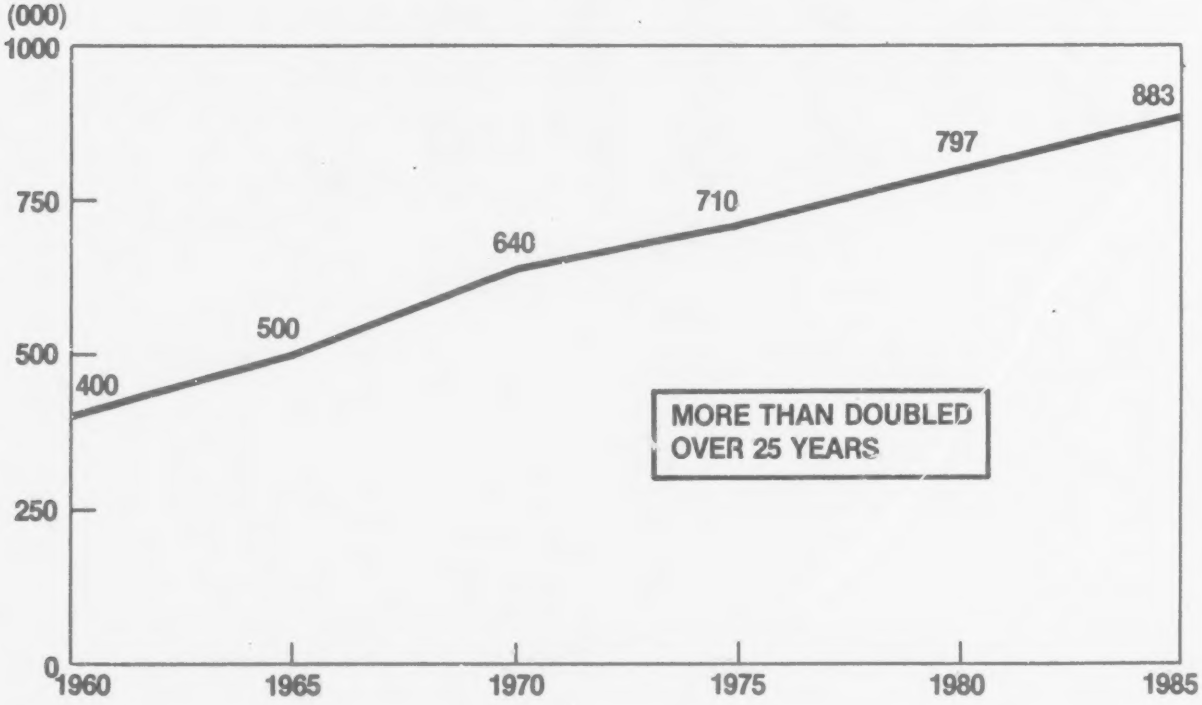
Senator STAFFORD. Do they pay rent to you or have a sum deducted equal to rent? Is that the way it works?

Mr. SULLIVAN. Exactly. They would have a sum deducted, and if they had to make any repairs of over $500,000 they would have to come to us. So, we would still retain oversight of the building. It isn't as if we have completely abdicated our responsibility for monitoring what they are doing, following it as far as whether it is cost effective, and so forth, but the day-to-day operation would be in their hands. We would not sever our relationship with the building. We would continue to retain ownership of the building and would continue to follow the delegation closely. If it ran into problems, we could withdraw the delegation from an agency which was not handling it well.

Senator STAFFORD. Your second chart shows 47 percent of office space—I assume that that comes under your general jurisdiction—is leased and 53 percent is owned. A lot of the discussion in this committee over the last 10 years has centered on our belief that it is better to acquire property or to build property where we can than end up 20 years after a lease is entered into with 20 years worth of rent receipts and the owner of the building that the Government paid for can kick us out of if he wants to.

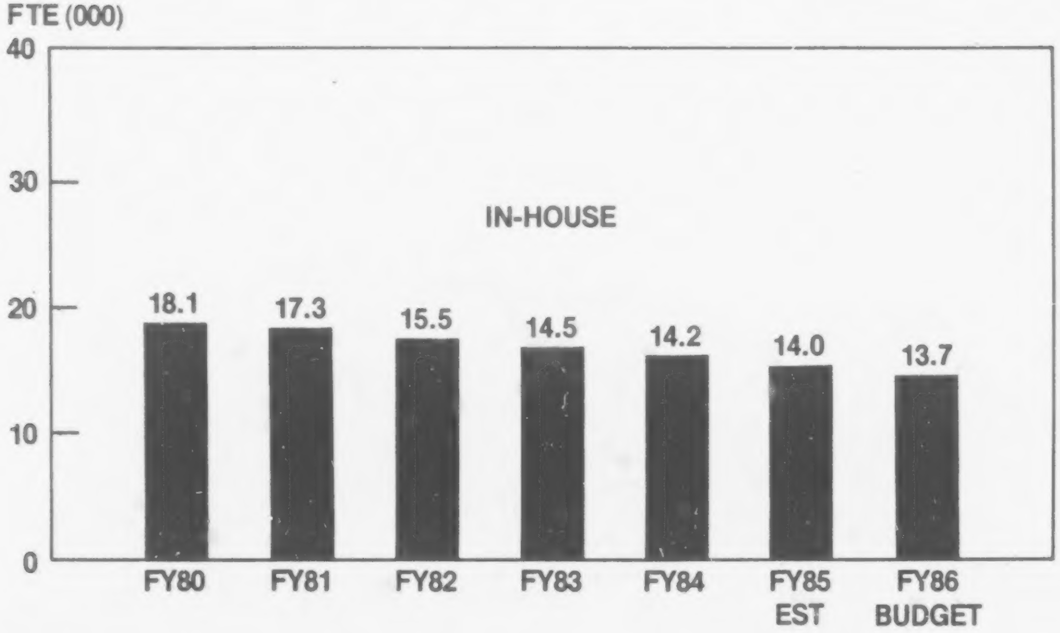
FEDERAL POPULATION HOUSED BY GSA

(25-YEAR PERSPECTIVE)



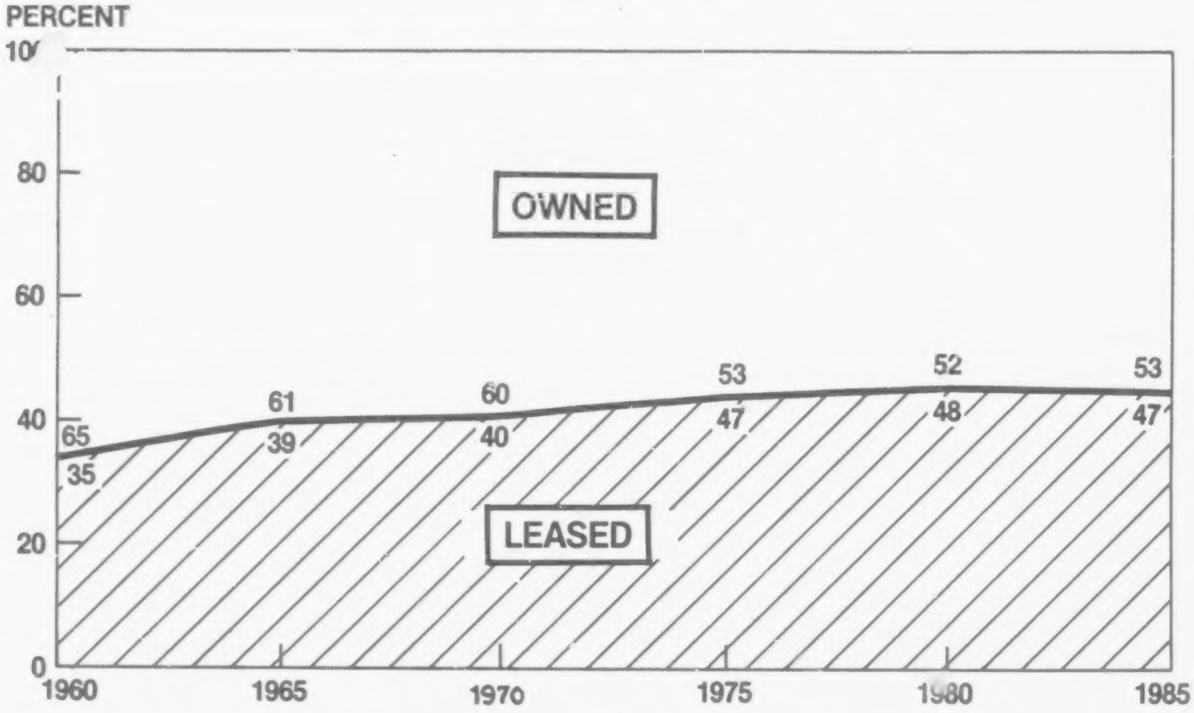
MORE THAN DOUBLED OVER 25 YEARS

FEDERAL EMPLOYMENT



PERCENT OF OFFICE SPACE OWNED/LEASED

(25-YEAR PERSPECTIVE)



Mr. **Sullivan**. We concur strongly in that objective.

Senator **Stafford**. All right. We didn't mean to interrupt all that much here, but why don't we go ahead with the rest of the charts.

Mr. **Jekowsky**. Mr. Chairman, your last point is exactly the purpose of showing this chart, to show you that our mix of space is now changing over time to more dependence on leased space. The chart to my far left now shows you the impact that that has had on our budget. The top black line shows you the percentage of our budget that we have invested over this period of time, from 1960 to 1985, in the capital assets of the U.S. Government. Our construction program, our purchase program, our repair program, and the design services necessary to carry it out.

Mr. **Jekowsky**. We agree with the committee that this has been a disturbing trend over time, taking us from 36 percent of our budget in 1960 for the capital accounts to only 18 percent for fiscal year 1985. The main reason for this decrease in funds available for capital projects has been the alarming trend that you can see on the rental of space line at the very bottom of the chart.

The statistics show that over that same period of time, we have risen to 38 percent of our budget strictly for rental of space payments compared to the 24 percent back in 1960. This, of course, has eaten into our ability to finance new construction, acquisition, and repairs.

With that as background, sir, we have formulated our fiscal year 1986 budget with these following objectives: To slow the growth in leased space costs, to increase our use of Government-owned space, to continue to maintain our buildings in a safe and operational state of repair, to deliver our space improvements on time and within our budget, to provide efficient service at the lowest cost possible to our clients, and to manage PBS in a business-like manner.

Mr. **Jekowsky**. This chart is an extension of the previous chart to show you that for fiscal year 1986, we are pleased to report to the committee that we are beginning to reverse the trends that we have showed you. This year we will increase to 26 percent of our budget for our capital program, a major increase from our fiscal year 1985 budget which was 18 percent. We are largely doing this because we are making a major attempt to control the cost of our leased space, which we are proposing to decrease from the current 38 percent of our budget to 36 percent of our budget. We are also proposing other reductions in our operating accounts that will allow us to spend more of our assets to repair Government buildings and to purchase Federal buildings.

Mr. **Jekowsky**. This next chart shows you the sources and application of our income. As you know, our income is mainly dependent on the collection of rent or the standard level user charge that comes into our Federal building fund. In fiscal year 1986, we have frozen the increases in all rent payments to the Federal Government. That is, we will be charging our client agencies the same rent that we are currently charging them this fiscal year.

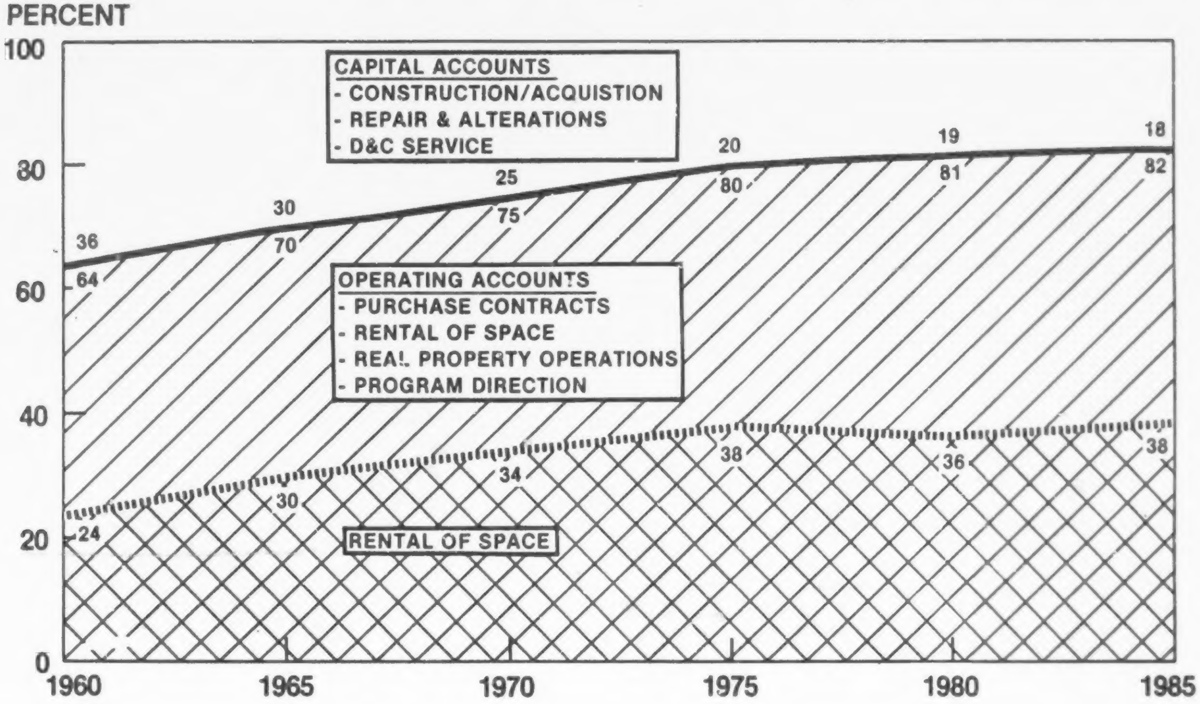
However, as you pointed out, our budget request does increase by 6 percent. That is solely due to the fact that last year's rent collections were not fully authorized for expenditure, and we are estimating a balance of $167 million within the Federal building fund that we are seeking authorization for in fiscal year 1986 to support our 1986 program.

I will be discussing each of our accounts separately.

The first account I would like to discuss is construction and acquisition account. This account finances new Federal construction, the purchase of existing buildings, and any postal acquisitions.

APPLICATION OF PBS BUDGET

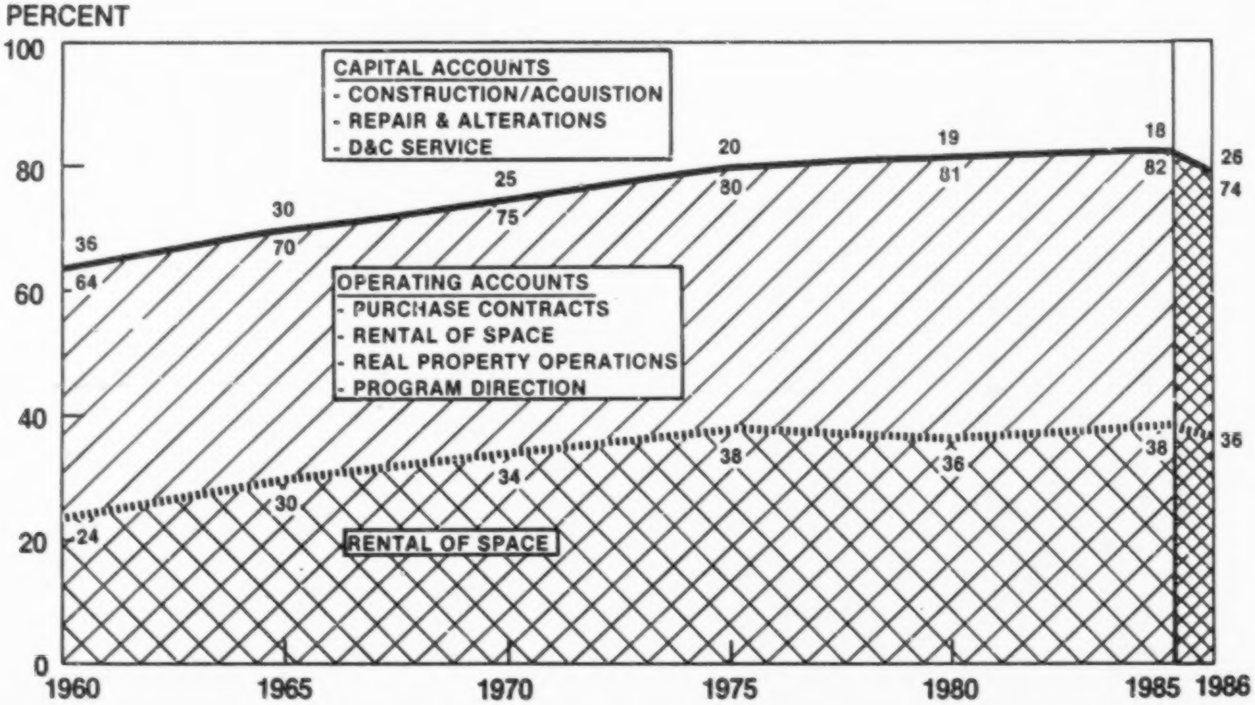
(25-YEAR PERSPECTIVE)



FY 1986 BUDGET OBJECTIVES

- SLOW THE GROWTH OF LEASED SPACE COSTS
- INCREASE USE OF GOVERNMENT-OWNED SPACE
- MAINTAIN BUILDINGS IN A SAFE AND OPERATIONAL STATE OF REPAIR
- DELIVER CAPITAL PROJECTS ON TIME AND WITHIN BUDGET
- PROVIDE EFFICIENT SERVICE AT REQUIRED LEVELS
- MANAGE PBS IN A BUSINESS-LIKE MANNER

APPLICATION OF PBS BUDGET



Mr. **Jekowsky**. As you can see, we are requesting $243 million in new authority for the construction of five new Federal buildings: a building in Los Angeles, CA; a Records Center in Overland, MO; a Federal Courthouse in Newark, NJ; a border station in Eastport, ID; and a Food and Drug Administration laboratory in Seattle, WA. Last year's request was basically for opportunity purchase and a very small construction program.

In our second capital account, our repairs and alterations account, we have a request for fiscal year 1986 of $264 million, an increase over this year's $221 million level. The chart on my extreme left shows you the breakout of the program. The top part of the pie circle represents 48.7 percent of our request, or $128.6 million, for repair projects less than $500,000. Our budget request, in addition, supports 26 repair projects requiring prospectus authority, that is, in excess of $500,000, in the following areas: basic repairs, vacant space alterations, historical preservation, the health and safety of our buildings, U.S. court repairs, and special programs.

Mr. Jekowsky. In addition, this year we are continuing our program of requesting design funds in our Design and Construction Services account for design, management and inspection of 35 repairs and alterations projects that will be designed in fiscal year 1986 for future year construction.

Senator Chafee. What is historic preservation, the item you have there? I must say, maybe others can read your charts, but I am having a difficult time.

Senator Bentsen. I am having the same problem. They are probably good charts.

Senator Chafee. As a suggestion for next time, if you could provide each of us with the same material you have on your charts so we can look at it here, it would be helpful, or else make your charts much bigger.

Anyway, back to the preservation item, what is that item? Obviously, I know what historic preservation is, but is that where you take a Federal building that you own and do what to it? Do you restore it to its historic——

Mr. Zoellner. Mr. Chafee, a good example of that would be the Bowling Green Customs House in New York that is currently under construction. We are taking a historic building and refitting it; not modernizing it, but upgrading it to make it useful for our needs as well as preserve its historic and architectural features.

Senator Chafee. Would this be a building that you owned anyway?

Mr. Zoellner. These would be buildings that we own. A building that we will be working on in 1986 would be the Pension Building, for example, here in Washington, DC.

Senator Stafford. Does this piece of the budget include a historic building that is now owned by the Government?

Mr. Zoellner. All of these buildings are owned by the Federal Government.

Senator Chafee. It must be hard to differentiate between repairs to one old building that you own and historic preservation to another old building that you own. Frankly, all you are doing is internal. You are not putting the rococo decorations back or whatever it is.

Mr. Zoellner. You are absolutely correct. The reason we break out historic preservation is because we have been asked so many times what we are doing on some of the more significant buildings. We try to differentiate these basic repairs, such as replacing or installing an air conditioning system in one of these older buildings, from the work that is being done to replace the stonework, which we would consider to be historic.

Mr. Jekowsky. Mr. Chairman, would you like us to try to move the charts closer up?

Senator Stafford. Yes.

Senator Bentsen. Yes. I am having difficulty reading them.

Senator Stafford. What this demonstrates is that the committee has become used to large figures in every sense of the word.

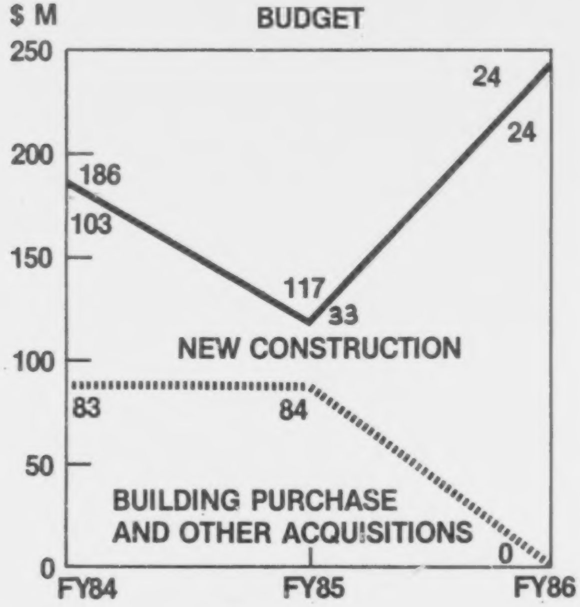
Mr. Sullivan. Well, it is wonderful that you are taking such an interest. We are pleased.

Mr. Jekowsky. The next budget activity we would like to discuss is the design and construction services activity which funds design for construction and repairs programs. This is a new budget activity that was instituted this fiscal year so that we could report the total cost of our design and construction program in one budget activity. This includes the design, management and inspection of both our in-house architect and engineering staff and all of the work we do under contract.

Our design and construction services request for fiscal year 1986 is for $123 million. The largest part, or 63.4 percent of our request, is to support the design and management of our repair and alterations program. The smaller part, or $33.5 million, is for the design, management and inspection of the five new construction projects I mentioned earlier. In addition, this account finances technical services to help us do surveys and prepare for repairs and alterations projects.

CONSTRUCTION AND ACQUISITION

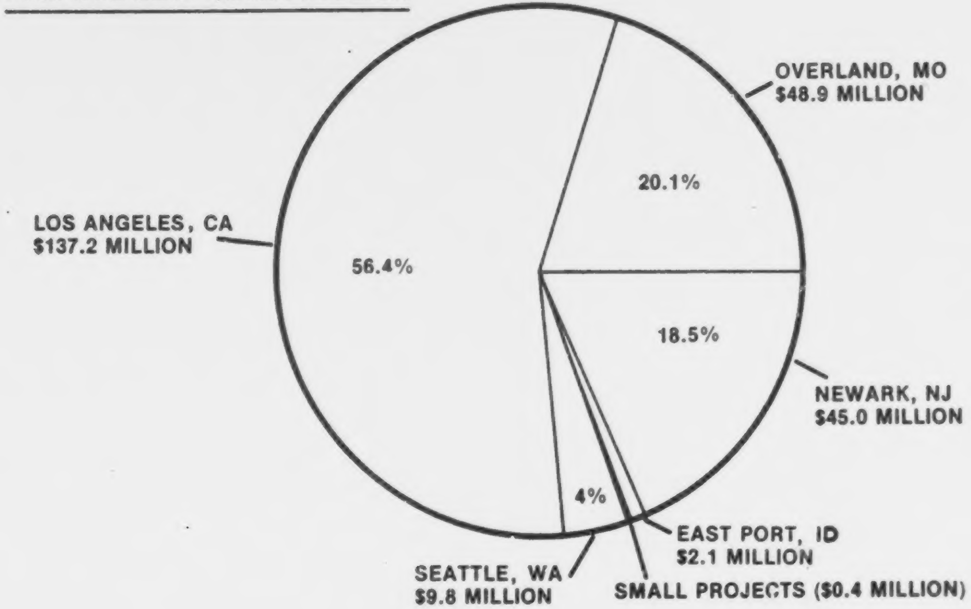
SITE ACQUISITION, CONSTRUCTION COSTS, AND PURCHASE OF COMMERCIAL FACILITIES



- FULL PROJECT FUNDING
- 5 NEW CONSTRUCTION PROJECTS
- NO FUNDS FOR BUILDING PURCHASE OR USPS ACQUISITIONS INCLUDED IN FY86 BUDGET

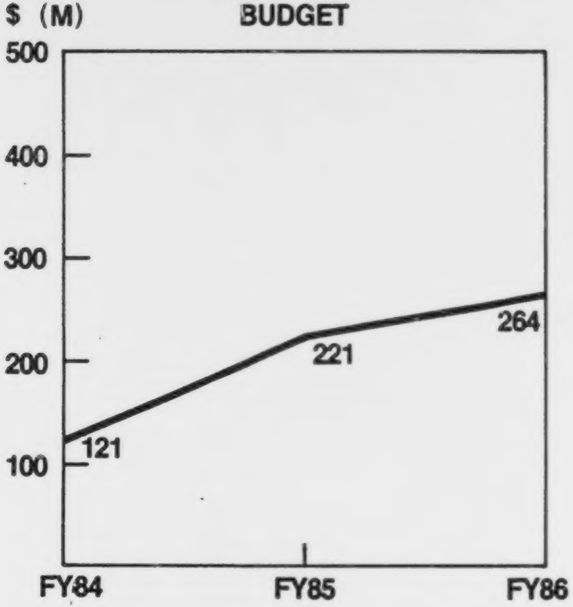
CONSTRUCTION AND ACQUISITION

FY86 BUDGET: $243.4 MILLION



REPAIRS AND ALTERATIONS

CONSTRUCTION OF REPAIR AND ALTERATION PROJECTS IN EXCESS OF $10,000



2 CATEGORIES OF LINE ITEM PROJECTS

- 26 PROJECTS ($135.5M) DESIGNED IN FY85, CONSTRUCTION-FUNDED IN FY86.

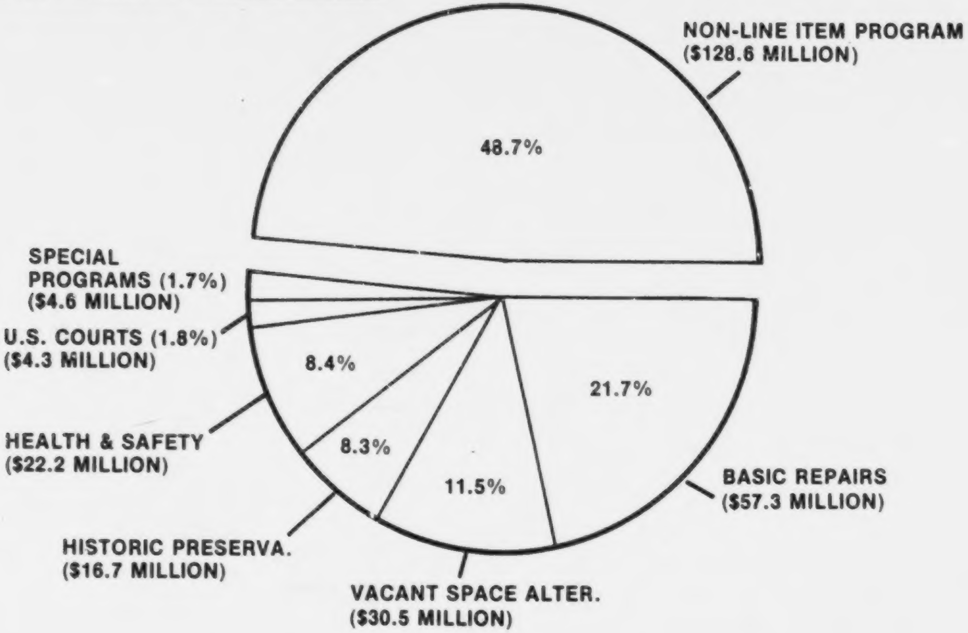
- 35 PROJECTS ($33.4M) TO BE DESIGNED IN FY86 (FUNDED IN D&C SERVICES ACCOUNT)

NON-LINE ITEM PROJECTS

- $128.6M IN FY86

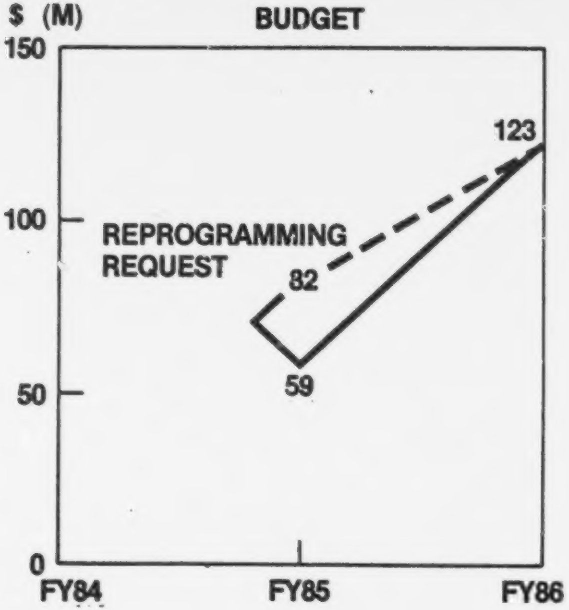
REPAIRS AND ALTERATIONS

FY86 BUDGET: $264.1 MILLION



DESIGN AND CONSTRUCTION SERVICES

DESIGN, MANAGEMENT AND INSPECTION OF CONSTRUCTION AND R&A PROJECTS, TECHNICAL SERVICES (INSPECTIONS, SURVEYS, ETC.)



- FUNDED IN OTHER ACCOUNTS IN FY84
- DIRECT-FUNDED IN SINGLE ACCOUNT BEGINNING IN FY85
- REQUEST TO REPROGRAM $23 MILLION FROM OTHER ACCOUNTS IN FY85

Mr. **Jekowsky**. Our rental of space account, as I previously mentioned, has been steadily increasing over the past few years. The chart on my immediate left shows you that our budget proposes a very challenging goal, to stay within $1 million of our current budget. The dotted line shows you that in 1984, of the $847 million of authorized authority, we expended $801 million. We project, in fiscal year 1985, we will spend $847 million of our $865 million authority. As you can see, the narrowing of that line proves a very challenging year for us to control the growth of our rental of space account.

In terms of square feet, our budget requires us to decrease our current 88.9 million square feet of leased space by 5.1 million square feet, or down to 83.8 million in fiscal year 1986. We will do that in a number of ways. In fiscal year 1985, for example, we plan to spend $847 million. The expansion space requirements that we satisfy for the Federal Government in fiscal year 1985 will have an impact on next year's budget by $10.6 million.

Mr. **Jekowsky**. We are planning on the cancellation of $41 million and 5.1 million square feet through a number of avenues. The purchase of existing buildings that we are currently leasing is a major part of our planned reduction. We also, unfortunately, are experiencing $51 million in increased rental bills. This is in addition to what we are spending in fiscal year 1985. That is our proposal to stay within our $866 budget.

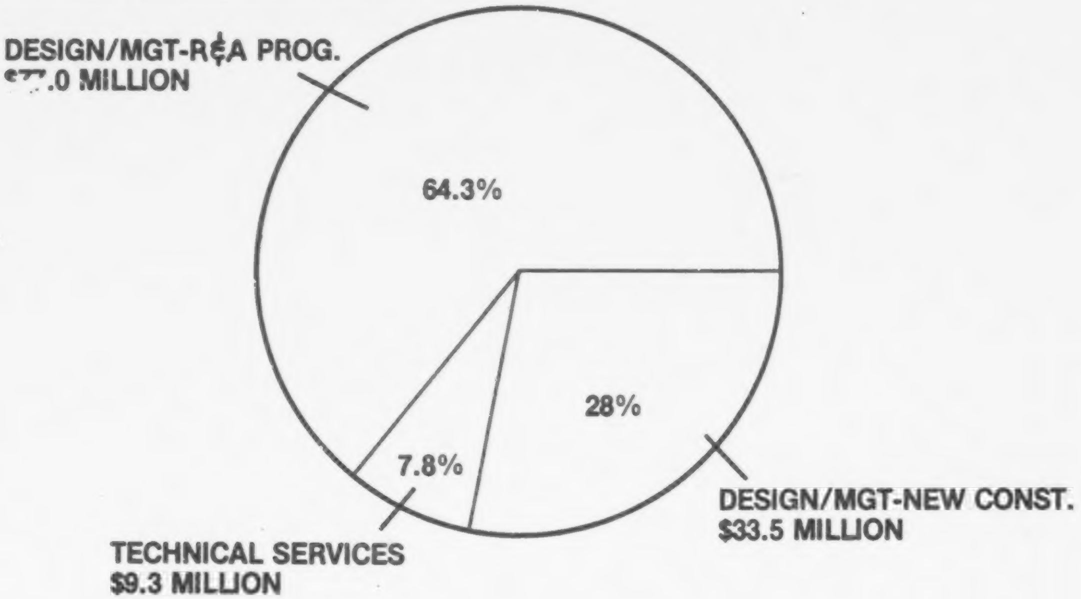
Senator **Stafford**. Is that $51 million of increased rent provided for by escalation clauses in leases or is that due to renting new properties?

Mr. **Jekowsky**. That is the former, the increased taxes, operating costs and negotiating of existing leases up for renewal. All the new leases would be under the expansion categories.

This account, the real property operations account, covers the management and operation of all our space, including cleaning, maintenance, utilities and fuels, and protection services. Overall, this account, as illustrated by the $685 million number for fiscal year 1986, represents a real decrease of 2 percent in the cost of operating our buildings. However, our fiscal year 1986 request is for $710 million.

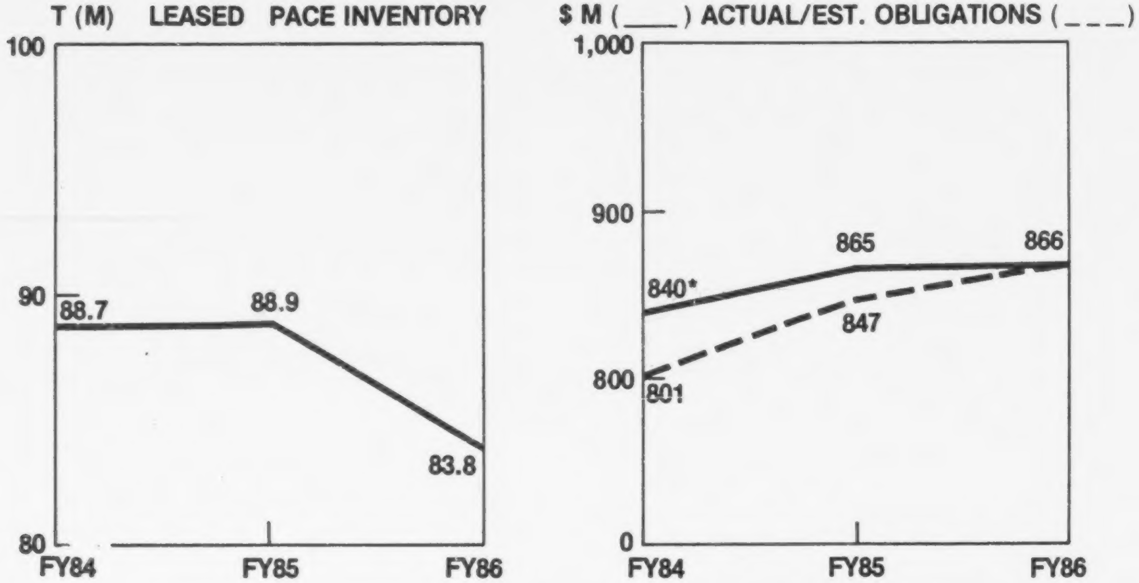
DESIGN AND CONSTRUCTION SERVICES

FY 86 BUDGET: $123.1 MILLION



RENTAL OF SPACE

RENTAL PAYMENTS FOR LEASED SPACE AND REIMBURSEMENT TO POSTAL SERVICE FOR U.S.P.S. SPACE



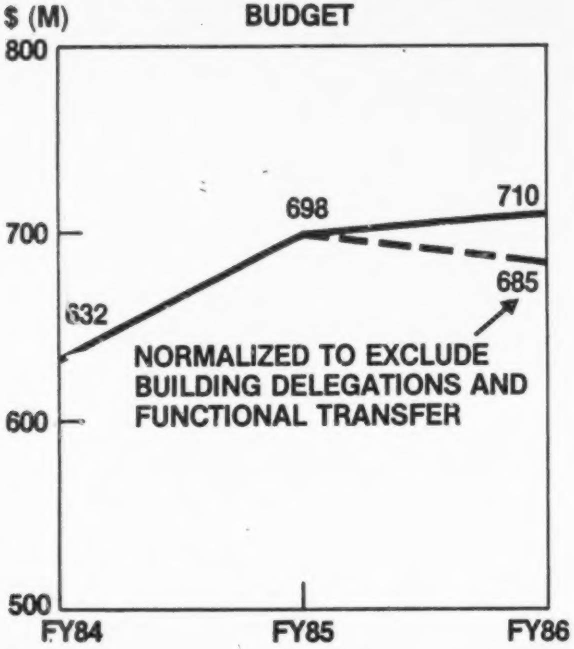
*ADJUSTED TO EXCLUDE AUTHORITY DELEGATED TO VETRANS ADMINISTRATION ($7 MILLION)

RENTAL OF SPACE

	$ MILLIONS	SQ. FT. (MILLIONS)
FY84 ACTUAL PROGRAM	801.1	88.7
FY84/FY85 EXPANSION	24.9	2.0
FY84/FY85 CANCELLATIONS	-23.6	-1.8
FY84/FY85 RENT INCREASES	45.2	-
FY85 PLANNED PROGRAM	846.6	88.9
FY85 EXPANSION	10.6	-
FY85/FY86 CANCELLATIONS	-41.0	-5.1
FY85/FY86 RENT INCREASES	51.0	-
OTHER MISCELLANEOUS CHANGES	-1.2	-
FY86 BUDGETED PROGRAM	866.0	83.8

REAL PROPERTY OPERATIONS

MANAGEMENT AND OPERATION OF SPACE, INCLUDING CLEANING, MAINTENANCE, UTILITIES/FUELS AND PROTECTION


BUDGET

- PROVIDE STANDARD LEVEL SERVICE
- FUNCTIONAL TRANSFER OF $44.6M (1,259 FTE) FROM PROGRAM DIRECTION
- 2% BUDGET DECREASE WITHOUT FUNCTIONAL TRANSFER AND BUILDING DELEGATIONS
- $2 MILLION (312 FTE) PEODUCTIVITY SAVINGS PLANNED FOR FY86
- BUILDING DELEGATIONS PROGRAM ($19.5M IN FY 86)

Mr. **JEKOWSKY**. There are two variables that affect this. We are delegating buildings, as we have already mentioned. There are a number of buildings under this program, and there is $19.5 million that we are not asking for in our budget that other agencies will be asking for to operate these buildings in fiscal year 1986. In addition, we have transferred all of our operational people, to this account to better reflect the true cost of the operations of our buildings. So, in real terms, our cleaning, utilities, protection, and maintenance budget will decrease by 2 percent this year.

Senator **CHAFEE**. That is not a saving to the U.S. Government. That is just transferring it to somebody else.

Mr. **JEKOWSKY**. The $19.5 million is, but the 2 percent is an overall reduction in the money that we will spend operating our buildings.

Senator **CHAFEE**. Is that based on the suggested 5-percent pay cut for employees? Is that worked into your figures?

Mr. **JEKOWSKY**. Yes; it is.

Senator **CHAFEE**. I don't think the 5-percent pay cut will take place, and I would be curious to know what the effect would be on your budget if that 5-percent pay cut weren't in there.

Mr. **JEKOWSKY**. The total savings reflected in our fiscal year 1986 budget is $1.2 million. There would be no significant impact on PBS programs.

Senator **BENTSEN**. Where does that leave you, about even? If you don't have the 5 percent pay cut, then where do you come out on your budget? $20 million, you say, does that make it about an even projection? Do you actually have a decrease then or not? You don't have the 2 percent, obviously.

Mr. **JEKOWSKY**. Let me clarify my answer. The 2-percent reduction is an overall reduction in this account if we set aside the buildings delegations and the functional transfer of operational people. If we didn't show a 5-percent pay cut in fiscal year 1986 the reduction would be slightly less than a percent.

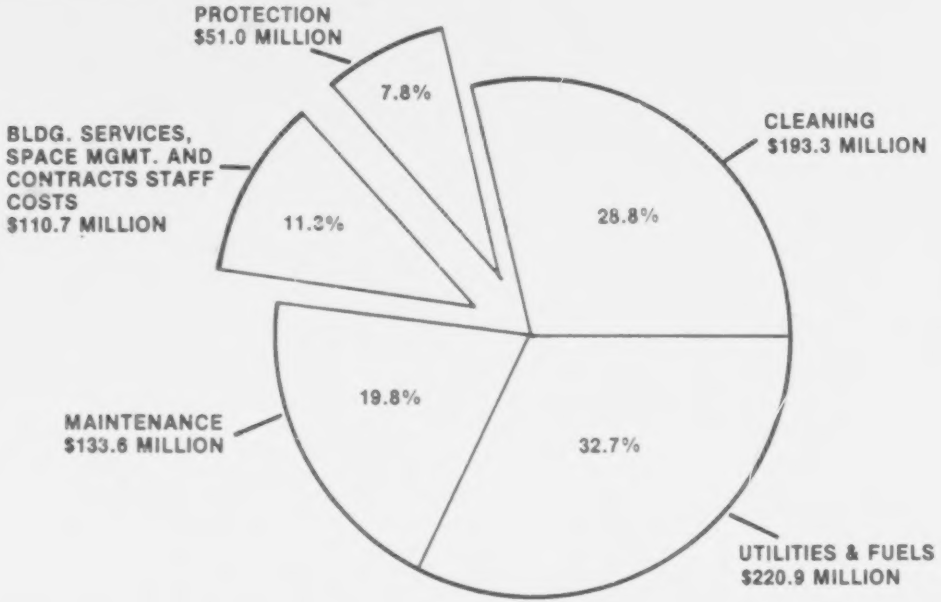
Senator **BENTSEN**. I don't follow that, but continue.

Mr. **JEKOWSKY**. This account, the program direction account, is our overhead account, and it represents the cost of personnel, data processing, and administrative costs. Our request for fiscal year 1986 is $55.5 million. The large decrease in our account from fiscal year 1985 represents the functional transfer of employees salaries I mentioned in the last account. This request, adjusted for the entire transfer would compare at $103 million.

Mr. **Jekowsky**. This account, referred to as purchase contract payments, is set up to pay the principal, interest, and tax payments of 73 buildings where construction was financed over a 30-year period. The request this year of $135 million represents a large decrease from our current request in that we will longer be responsible for paying taxes on 16 buildings.

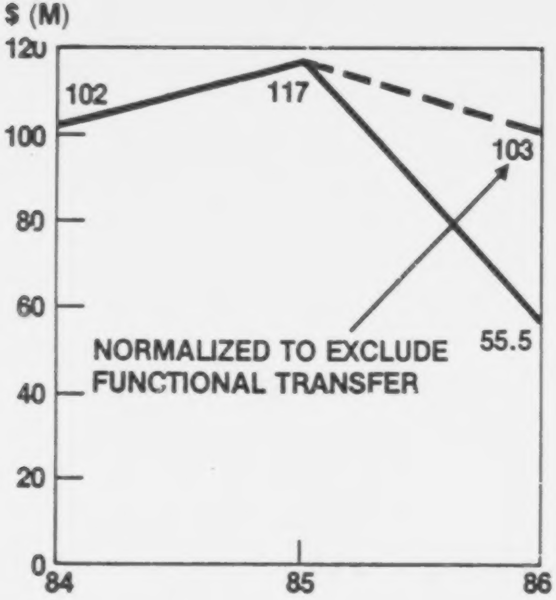
REAL PROPERTY OPERATIONS

FY86 BUDGET: $709.7 MILLION



PROGRAM DIRECTION

TOP MANAGEMENT, POLICY, PLANNING, ADP SUPPORT, COMMON DISTRIBUTABLE COSTS, ADMINISTRATIVE COSTS

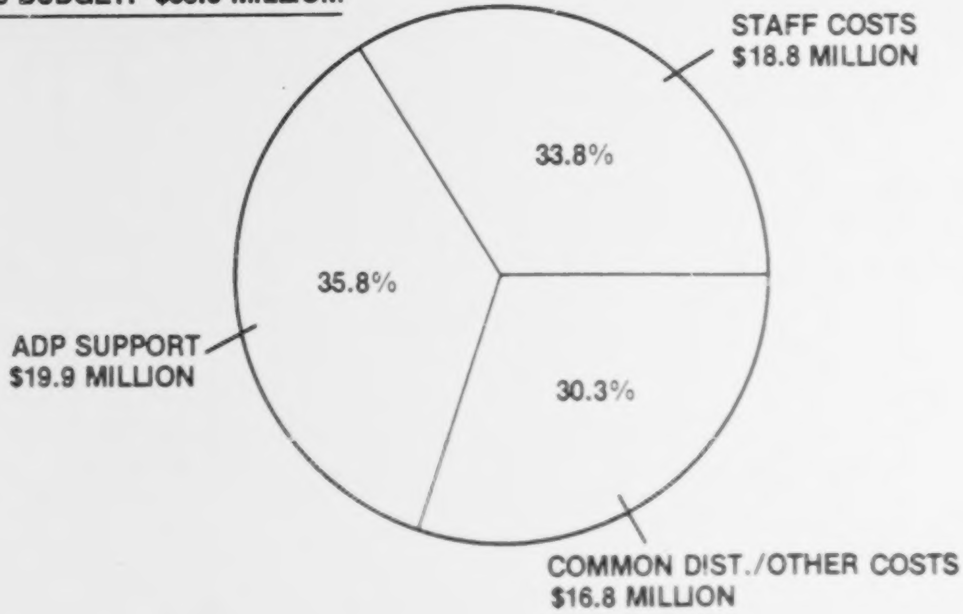


DRAMATIC REDUCTION DUE TO:

- FUNCTIONAL TRANSFER OF PROGRAM STAFFS TO OTHER ACCOUNTS ($47.7M)
- ELIMINATION OF FY84 AND FY85 ONE-TIME COSTS FOR PBS/IS CONVERSION, STRIDE IMPLEMENTATION, AND OFFICE AUTOMATION

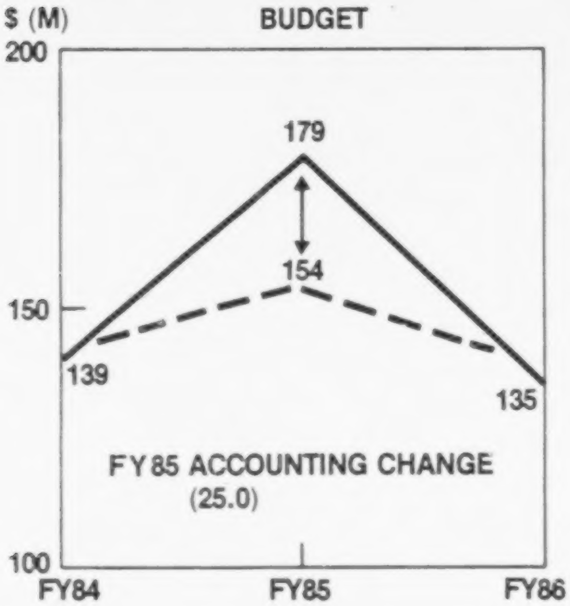
PROGRAM DIRECTION

FY86 BUDGET: $55.5 MILLIOM



PURCHASE CONTRACT PAYMENTS

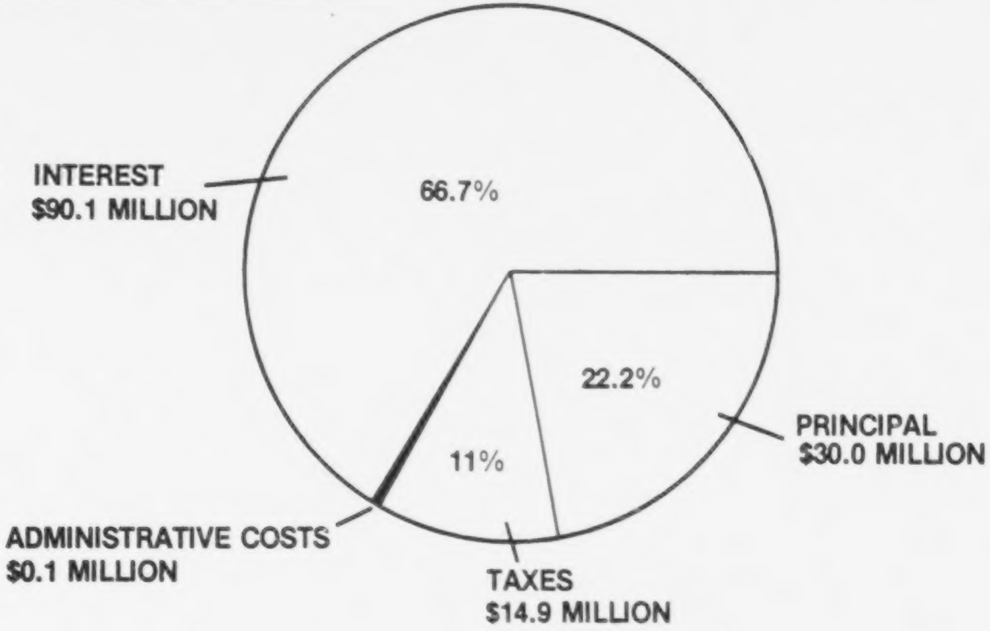
PRINCIPAL, INTEREST AND TAX PAYMENTS FOR 73 BUILDINGS WHERE CONSTRUCTION WAS FINANCED OVER A 30-YEAR PERIOD



- FY85 ONE-TIME CHANGE FROM CASH TO ACCRUAL ACCOUNTING METHODS
- TRANSFER OF TITLE FOR 16 BUILDINGS PLANNED FOR FY85 ($ 7.9 M TAX SAVINGS)

PURCHASE CONTRACT PAYMENTS

FY86 BUDGET: $135.0 MILLION



In addition to the funding that is provided under our direct budget authority, we have a substantial program on a reimbursable basis for services that are above the services we provide through our standard level user charge. This year we are requesting authority to accept reimbursable payments from other agencies for $532 million.

The chart on my far left shows you the breakout of the types of services we provide for other agencies on a reimbursable basis. For example, space alterations is 37 percent of the reimbursable work we will be doing, and we expect to receive from agencies $196 million of reimbursement to satisfy their requests for space alterations.

Mr. **Jekowsky**. To conclude the presentation, we are showing our trend on employment. These are the in-house, Government employees that execute the PBS program. You can see the trend along the lines of current administration policy is continuing to decline, as we are relying more on the private sector to deliver commercially available services. Our estimate for fiscal year 1986 has us at a Federal full-time equivalent usage of 13,700 employees, a decrease of 300 over our current budget.

This concludes our prepared remarks. Thank you.

Senator **Stafford**. All right. Thank you very much.

Senator **Chafee**. Mr. Chairman, could I just ask one question?

Senator **Stafford**. Yes, certainly.

Senator **Chafee**. That is quite a dramatic drop, percentage-wise. You have gone from 18,100 employees to 14,000 in 1985. So you have had a drop of 4,000 employees from a base of 18,000. That is 20 percent, isn't it?

Senator **Stafford**. It is a little more than that.

Senator **Chafee**. It is a little more than that. That is a big drop. Is it a true saving, or are you just contracting out for a substantial portion of it?

Mr. **Jekowsky**. The majority of it is through contracting out, particularly in the custodial area, where we saw the major part of our reduction, but we have documented savings to show us that it is, in fact, cost effective to rely on the private sector for provision of our services.

Senator **Bentsen**. Give me a feel, percentage-wise. You say it is cost effective. Does it save you 10 percent?

Mr. **Zoellner**. If I may answer that, typically, it has been averaging anywhere from 30 to 40 percent less expensive to go to the commercial sector for custodial services. It is a significant amount.

Senator **Bentsen**. That is marvelous.

Senator **Chafee**. You contract for your protective services, too, don't you? Are some of them on the Federal payroll and some of them private?

Mr. **Zoellner**. We have both, Senator Chafee. We provide some contract guarding. We also provide some guarding and, of course, law enforcement, with our own force account people. So, there is a mixture. Most of the actual fixed post type guarding is provided by contract around the country, and that is probably what you have seen in the building that you are referring to.

Senator **Chafee**. Thank you.

Senator **Stafford**. Thank you very much.

Gentleman, let's get at some of the questions we may have. The Chair is going to reserve the right to members of the committee who can't be here to submit questions in writing if they wish within the next couple of days and ask, Mr. Sullivan, that you and your colleagues respond to them at your earliest convenience, if you will.

Mr. **Sullivan**. Certainly.

Senator **Stafford**. What is the current status of GSA's effort to meet the space needs of the Social Security Administration data operations center in Wilkes-Barre, PA?

Mr. **Sullivan**. Yes, I can comment on that. A proposal has been brought forward to us in Washington. We are continuing to evaluate that. The requirements of that project have been, to some degree, called into question by the Office of Management and Budget. So, we are having meetings. In fact, today we are having a meeting to discuss that further and resolve some of the questions that we have.

Certainly, before we make a decision on that, we will have to go to OMB and Congress, ultimately, on anything that we do do.

Senator STAFFORD. As you are well aware, I suppose, there has been some discussion of both the construction of a building in Wilkes-Barre and renovation of a building outside of Wilkes-Barre. I suspect that Senator Specter is going to be looking for me either before or after lunch on that subject.

Mr. SULLIVAN. Yes, I am well aware of that. What I was saying was that we are not sure that there is even the need to do either. We need to verify that.

Senator STAFFORD. How rapidly do you think that verification can occur?

Mr. SULLIVAN. In the next several weeks.

Senator STAFFORD. All right. Thank you. Senator Spector is going to want to know what plans are afoot, if any, and I guess I will convey to him what you have just told me and refer him to you if he wants further discussion.

Mr. SULLIVAN. I have been talking with his staff on this.

Senator STAFFORD. All right.

The budget requests over $33 million in design and repair projects during fiscal year 1986. I am told the construction costs associated with this level of design would exceed $400 million. Given budgetary constraints over the next several years, is it realistic to anticipate that such a high level of construction can be funded or are we simply generating a large backlog of design projects for which construction funds are unavailable?

Mr. SULLIVAN. We believe that request that we have for design in 1986 is certainly realistic. We will be scheduling these projects for construction in the out years, 1987, 1988, and some may even slip into 1989. So, we will not be looking to come to you in the next fiscal year with full funding for all of those construction projects. It will just take some time to complete the designs of the projects that we are asking for in 1986.

Senator STAFFORD. Thank you.

Please describe the scope of the asbestos problems in Federal buildings and the steps GSA is taking to address that problem. For example, what level of resources would be required for asbestos removal and encapsulation over the next 5 years?

Mr. SULLIVAN. We have identified approximately 252 Federal buildings which have some form of asbestos in them. We have prioritized that group into what we consider 45 fairly serious situations. We have asked for design funds in this fiscal year's budget to design 15 of the projects for a total of $19.2 million. We anticipate that it will cost about $200 million, I would say, over the next 5 years to finish those 45 projects.

Senator STAFFORD. With respect to the Pension Building, which has been mentioned this morning, has GSA signed a new cooperative agreement with the National Building Museum on the utilization of the Pension Building?

Mr. SULLIVAN. We have had an agreement for the last 2 years. It needs to be modified. We have had discussions with the National Buildings Museum people and have worked out a satisfactory agreement. It has not actually been formalized, but the essence of the agreement is that we are going to have about 100,000 square feet of office space in the Pension Building.

Senator STAFFORD. That is for Federal office space?

Mr. SULLIVAN. Yes, it will be, and the museum will retain approximately 18,000 square feet.

Senator STAFFORD. The budget contains $16.7 million for further renovation of the building. Will these funds complete all the work necessary to ready the building for joint occupancy?

Mr. SULLIVAN. Yes, they will.

Senator STAFFORD. Finally, the Nuclear Regulatory Commission has sought consolidated space for years. What is the current status of this endeavor?

Mr. SULLIVAN. I would like Mr. Iudicello to answer that.

Senator STAFFORD. All right.

Mr. IUDICELLO. Sir, in the fiscal year 1986 budget, we have proposed a major lease consolidation in the National Capital region for the Nuclear Regulatory Commission. We are very pleased to report that we can achieve this consolidation in a nondowntown location, so here we are beginning to implement our new locational policies. We believe it is a cost effective solution to consolidate these agencies, because we achieve, especially in this case, major improvements in the utilization of space. I believe their office space utilization rate is going to go from 204 square feet per person to close to 135 square feet per person. So, we believe it is a cost effective solution to consolidate them in a suburban location, meaning Bethesda or the outer areas of Washington, DC.

Senator STAFFORD. We are told that the estimated rental cost to house NRC would be almost $14 million per year, or $280 million over 20 years. Has consideration been given to Federal construction in the light of these costs?

Mr. IUDICELLO. Yes, sir, it has. As you know, we do what we call a life cycle analysis of the alternatives to satisfy any agency's requirements. While construction of the NRC consolidation could prove more cost effective than leasing in this situation, our other national priorities around the country suggest that we should go forward with a lease consolidation as an interim step for major savings, and then as our priorities can adjust to the areas of major capital investment where we need it, like in the National Capitol Region, we will seek future ownership for major consolidations like the NRC.

Senator STAFFORD. Thank you very much.

Senator Bentsen?

Senator BENTSEN. Thank you, Mr. Chairman.

In early 1982, the General Services Administration submitted a long-range plan for what they intended to do between 1982 and 1988. I don't have any knowledge of their having updated those plans insofar as the Public Buildings Service management plan. Do you, as the new Commissioner, intend to try to give us an annual submission of that kind of a long-range plan? It is a valuable tool for this authorizing committee.

Mr. Sullivan. I can agree with that. I think it is a very valuable tool. We had a 5-year plan at the Veterans' Administration which we submitted to Congress annually. Quite frankly, I don't know what the Administration position is regarding that, but my personal view, and I underscore that, would be that we certainly need to do that internally to have a long-range 5- and 10-year plan, and I would certainly endeavor to try to share that with you.

Senator Bentsen. I would think that the Administration would find that just a good management tool. That is not a major policy question.

Mr. Sullivan. We need to do it internally. It is just a question of sharing that with Congress, and as I say, I would certainly want to do that if we can get agreement within the Administration.

Senator Bentsen. Now, with reference to the 1982 plan, I bring to your attention the projected list of buildings to be authorized and constructed in fiscal year 1988. One of those, of course, is the Federal building in Houston. That was at a projected cost of $164 million. Is that building still in your plans for fiscal year 1988? If so, what is its projected cost now?

Mr. Sullivan. I will let Mr. Iudicello answer that if I might.

Senator Bentsen. All right.

Mr. Iudicello. I don't have the 1982 plan in front of me, but there are no current plans for a major Federal construction project in our inventory for the Houston area at this time.

Senator Bentsen. None. So, in effect, you have negated that one. Is that it?

Mr. Iudicello. Yes, sir. Because of the rental market situation in Houston and other priorities in other areas of the country, we believe we can be very cost effective in the Houston area by leasing space.

Senator Bentsen. Let's take a look at it from another standpoint. I don't have any building in mind, but I look at it from a taxpayer's standpoint. You have an area such as Houston with a substantial excess of rental space. The same thing happens in other parts of the country. Denver is a good example. It seems to me that it would be a good time to move in, not just to rent, but to buy one of those buildings and not worry about the Federal Government having to build one. It would seem to me that you could buy one at a bargain, possibly, that might be appropriate. Are you in a position to move in that direction? Would you consider such an objective, say, in Denver or Houston or some other place where that sort of bargain presented itself?

Mr. Sullivan. We are already doing that, Senator, in our opportunity purchase program. In fact, we just acquired a building in Austin.

Senator Bentsen. Well, Austin is just the opposite. Austin is a town that is booming, tight on space.

Mr. Sullivan. What we are trying to do is look nationally at where we have high rental markets, such as San Francisco, and try to acquire buildings there. Certainly Houston would be a candidate, but we would have to look and see how it stacks up to other cities on our priority list. Rental rates are relatively low in Houston compared to some of the other higher markets. That drives us away from acquiring a building there. Those are the considerations.

Senator Bentsen. I hope you look at it more long term than that. You may have a low rental rate, but you also may have a chance to purchase at a sacrifice a building that has just been constructed. You have some buildings in Houston that you can see through; there are no tenants in them, some are 50 story buildings. If you go to Austin, you have a town that is booming and the situation is very tight there.

Mr. Sullivan. We try to project out the rental rates for 10 years and use that as a means to compare. Of course, we have limited resources to use to acquire buildings or to do new construction. So, we have to prioritize those resources and go to the areas of the country where we are currently paying the most in rents.

Senator Bentsen. That looks like you are doing more short term.

You said that you would give us your detailed thoughts regarding our reform legislation and I understand that is under study now. Is that correct?

Mr. Sullivan. Yes, Senator.

Senator Bentsen. Mr. Chairman, that completes my questions.

Senator Stafford. Thank you very much, Senator Bentsen.

Senator Chafee.

Senator Chafee. Thank you, Mr. Chairman.

First, I want to commend you. I don't know the details, but I think the idea of the opportunity purchase program is a good one. I remember being down south and seeing a building that you had recently purchased. Apparently, you do have the capacity to move relatively fast sometimes. Is that right? Do we authorize you to do that or give you a specific lump sum of money? Whatever it is, I think it is good that that there is a Government agency that apparently can move with some dispatch when a bargain comes on the market.

Mr. Sullivan. You have authorized those purchases.

Senator Chafee. You mean you have to come back up here or we do that when we do your budget?

Mr. Iudicello. It is just part of the budget process. You authorize a certain amount. We do notify the committees when we are about to purchase a building.

Senator Chafee. Well, I think it is good and I think the capacity, as I say, to move quickly is good.

I would like to ask about the agencies that you delegate space to or reach an agreement with. I think they would be a little reluctant to take on the additional expense. Your graph showed that you have realized a $19 million saving, I believe, from others taking over management of your space. Let's assume they can do it more efficiently, but that they must take on a $15 million problem. In the days when we are talking budget freezes, they are taking on something additional. How enthusiastic are they about that?

Mr. Sullivan. We go to the agencies, and only when the agency actually comes to us and requests the delegation do we delegate to them. That is the way we have been handling it.

Senator Chafee. Sure they get some benefits in flexibility and control, faster reactions, and so forth, perhaps, but do they like to take the costs too?

Mr. Sullivan. It varies, certainly. I know when I was at the Veterans Administration we were interested in receiving delegation.

Some of the other agencies are not because either they don't feel they have the capability or they do not want to take on the responsibility.

Senator CHAFEE. The Nuclear Regulatory matter, that is something that we will be following because we had testimony from the Nuclear Regulatory Commissioners that they want to get this thing settled. Now, also we have had a lot of interest from the Maryland delegation on its being in Maryland. They are anxious to get it out of the District.

Mr. SULLIVAN. I understand.

Senator CHAFEE. We haven't heard from the District people yet, but you think that is going to happen?

Mr. IUDICELLO. Yes, sir. We believe the consolidation will occur. We have the support of the Nuclear Regulatory Commission in this consolidation.

Senator CHAFEE. Next, the selection of designers. Federal buildings traditionally have been the finest buildings in a community. I am thinking of a little town in New Hampshire. We go skiing in Littleton, NH. The Federal building there was probably built in the 1930's. When you build these big buildings, I hope you get a little class in them. I hope everything isn't to get it at the cheapest price. Can you give me some encouragement in that area?

Mr. SULLIVAN. Certainly, we want to have as attractive a design as we can. We are trying to be as cost effective as possible, but we don't want to just build boxes. So, we work very closely with the architect to make sure that his design is a very good design, functional as well as attractive.

Senator CHAFEE. How do you get your architect? What is the process of selecting that?

Mr. SULLIVAN. We have the so-called Brooks legislation which was enacted a number of years ago where we send out in the Commerce Business Daily a request or an indication that we are going to be designing and constructing a facility in whatever the area may be. We receive applications back, forms from architecture firms indicating their capabilities, the qualifications of the individuals, the firms, the jobs they have done, that sort of thing. Then we cull that down to typically four or five, sometimes three, firms that we interview, firms we feel are top rated to do that type of project. Then we make a selection based on that. It is actually a board that sits within GSA of top people, people who are familiar with design and mechanical systems and so forth.

Senator CHAFEE. Do you ever get a panel of architects to try to judge how you are going to have a nice, attractive design or something exciting?

Mr. SULLIVAN. I understand we have had competitions in the past at GSA. I don't know how frequently, quite honestly. Perhaps someone else is aware of that.

Senator CHAFEE. Can you name me a lovely building, a building that you are proud of that you have built in the last 5 years?

Mr. SULLIVAN. I will let Bill Lawson answer that. He is the head of our design and construction program.

Mr. LAWSON. Hello, Senator Chafee. How are you today?

Senator CHAFEE. Fine, thank you.

Mr. LAWSON. We have had a number of projects where we have used top quality architecture and engineering firms. Our panel, by the way, is made up of the top management architects and engineers in GSA. We go through several levels of criteria, depending upon the nature of the job. We have three basic levels of competition that we go through. If we go through a level three competition, that is a design competition.

The most renowned one locally is the Old Post Office on Pennsylvania Avenue.

Senator CHAFEE. Yes, except you didn't do that.

Mr. LAWSON. Yes, sir, we did. That was a GSA project.

Senator CHAFEE. You mean in doing it over.

Mr. LAWSON. Yes, in re-doing it.

Senator CHAFEE. I think you did a nice job, but you had the building to work with. Tell me one you have done where you have built a building. We have seen them. Springfield Courthouse, I remember that, in Springfield, MA. Is that an attractive building?

Mr. LAWSON. I believe so. We went through a level two selection process there. That required the finalists to give us a technical proposal for that project.

Senator CHAFEE. Well, I don't want to dwell on that. Can you name me two of the most attractive buildings you are proudest of? I think I might go take a look.

Mr. LAWSON. The two most attractive? The Boston Federal building, which is under construction is an attractive building. Let me name some repairs and alteration projects and restoration projects.

Senator CHAFEE. No, I would rather have you name me something you have built from scratch.

Mr. LAWSON. New buildings? All right. Seattle is one.

Senator CHAFEE. I don't think it is fair for you to claim the Old Post Office building.

Mr. LAWSON. The atrium of the Old Post Office.

Senator CHAFEE. Well, that was there before you got there. Name me a building.

Mr. LAWSON. OK. Seattle, Boston——

Senator CHAFEE. Slow down. What in Boston?

Mr. LAWSON. The Boston Federal building we are building right now.

Senator CHAFEE. You mean the John McCormack building? The John F. Kennedy building?

Mr. LAWSON. No, sir. It is not named yet. It is under construction right now, a new building.

Senator CHAFEE. I would rather have something I could look at.

Mr. LAWSON. OK.

Senator CHAFEE. How much can you see in Austin? How far along is the building there?

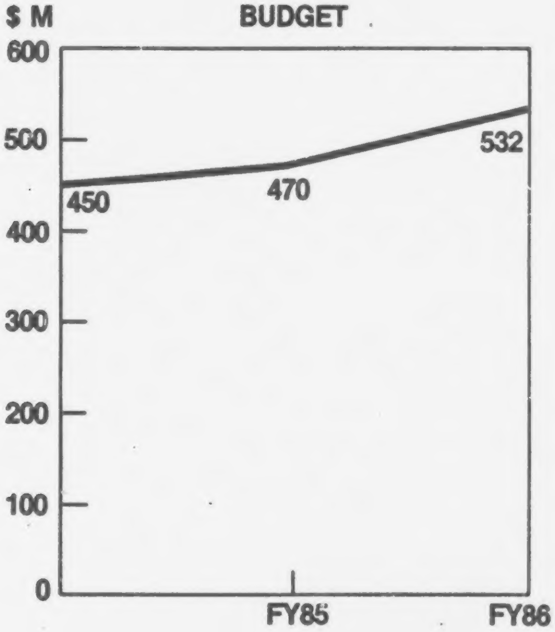
Mr. LAWSON. It is not far enough along yet.

Senator CHAFEE. OK. Name me a building that is finished.

Mr. LAWSON. A building that is finished, right here, locally, the HUD building, Housing and Urban Development building, the Hubert Humphrey building. You don't have to go far. We have a number of buildings here that he built and that we are proud of, and that are examples of contemporary architecture and a fine statement for the Federal Government. Just go down the street

REIMBURSABLE AUTHORITY

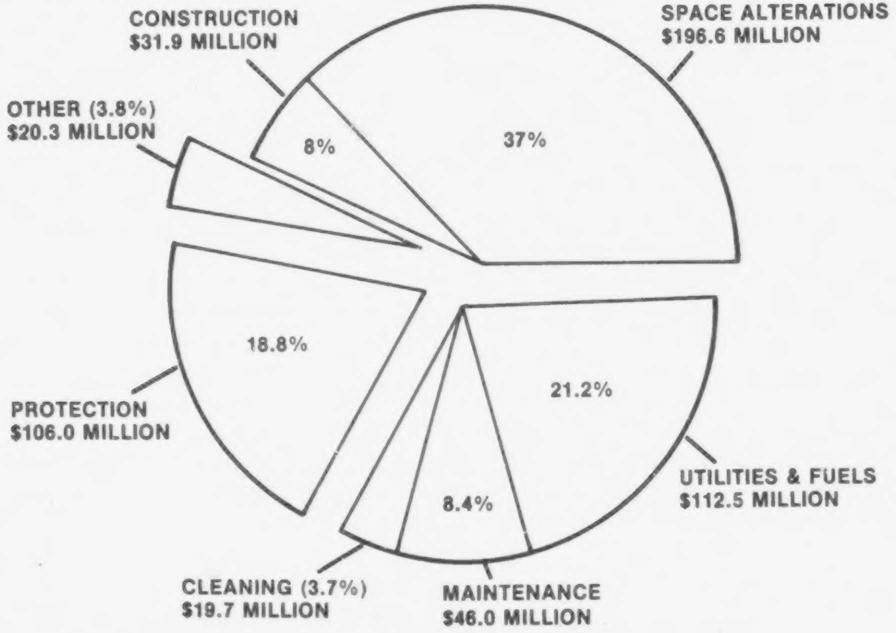
AUTHORITY TO COLLECT REIMBURSEMENT FOR SERVICES ABOVE STANDARD LEVEL, AND FOR CONSTRUCTION/R&A PROJECTS



- $11.8M (355 FTE) INCREASE FOR ADDITIONAL SUPPORT TO EXPAND NSA FACILITY AT FT. MEADE, MD
- OTHER INCREASES ($50.1M) FOR INFLATION AND CHANGES IN ESTIMATED TENANT AGENCY REQUIREMENTS

REIMBURSABLE AUTHORITY

FY86 AUTHORITY: $532.1 MILLION



and you can see a few buildings that we built that we are proud of. We built the Air and Space Museum.

Senator CHAFEE. Well, you did well on that.

Senator BENTSEN. That is a good one.

Senator CHAFEE. That is a good one.

Mr. LAWSON. We would be glad to take you on a tour.

Senator CHAFEE. OK. All I am saying is that I, for one, would be willing to spend a few extra dollars to have something good, because these buildings, presumably, are going to last a long time, and they do last a long time, witness the Post Office building or you are talking about the Pension Building. How old is that? Certainly, 100 years, isn't it?

Mr. LAWSON. Our criteria is geared toward what we would call the corporate headquarters criteria of a major corporation. That is the level of quality that we generally look for in our buildings. Our buildings tend to cost a little more.

Senator CHAFEE. Let me ask you this. I am not trying to badger you. Name me the most exciting building. Do you ever depart from sort of the corporate headquarters, massive look that you might have downtown here, something a little bit different?

Mr. LAWSON. The Hirshhorn Museum.

Senator CHAFEE. On those museums, I don't think that is fair for you to claim them. I will bet that the Air and Space Museum, and any of those Smithsonian museums, that an architectural selection process was different than what you are outlining here. Am I right or wrong?

Mr. LAWSON. No, sir. You are wrong. That process was our process. We went through an AE selection process to pick the architect for the Hirshhorn.

Senator CHAFEE. You mean to say that Carter Brown or some of those people were not involved in any way in the design of the Hirshhorn?

Mr. LAWSON. The clients are always involved in our selection process. They can witness our boards and they consult with our AE selection board. All our clients do that. But the AE selection process that we followed for the Hirshhorn, for Air and Space, is the same that we would follow for our Federal buildings.

Senator CHAFEE. OK.

Mr. LAWSON. You want an exciting building.

Senator CHAFEE. I am taking others' time. Name me the most attractive, nonmuseum, building you have designed that you can think of. I am not going to pin you down now. If you want to let me know, name three of them that I might go take a look at. I would prefer it if it were a courthouse.

Mr. LAWSON. Housing and Urban Development building by Marcel Broyer.

Senator CHAFEE. What is the next one?

Mr. LAWSON. I was just giving you the architect.

Senator CHAFEE. Who did that one?

Mr. LAWSON. Marcel Broyer & Associates.

Senator CHAFEE. All right.

Mr. LAWSON. The Forrestal Building is an attractive complex.

Senator CHAFEE. Yes, that is fairly old, isn't it?

Mr. LAWSON. It was finished in the late 1960's or early 1970's.

Senator **Chafee**. Again, I am not trying to put you on the spot. What I am thinking of is in the last 5 years or something.

Mr. **Lawson**. We haven't built any buildings in town in the last 5 years.

Senator **Chafee**. I am not saying in town. I am saying anywhere.

Mr. **Lawson**. OK. It would be better if I submit that for the record, OK?

Senator **Chafee**. OK. Why don't you go back and name three buildings that you are particularly proud of. I would just like to see what you are doing.

Mr. **Lawson**. Sure.

Senator **Chafee**. And it can be something if you name one that you consider extra exciting, not following the standard pattern.

Mr. **Lawson**. OK.

[The material requested follows:]

General Services Administration
Public Buildings Service
Washington, DC 20405

APR 2 1985

Honorable John H. Chafee
Member, Committee on
Environment and Public Works
United States Senate
Washington, DC 20510

Dear Senator Chafee:

During the Senate Environment and Public Works Committee hearing on March 14, 1985, you asked us to identify three recently completed Federal Buildings which we felt exemplified Federal design excellence. I have enclosed information and photographs of four recently completed projects which are visually attractive, efficient in design, responsive to special Federal mandates such as energy conservation and barrier free design, and which reflect "the dignity, enterprise, vigor, and stability of the American National Government" as described in the Guiding Principles of Federal Architecture (1962).

During the past several years, the General Services Administration has not had a major new Capital Improvements Program and, therefore, not many new buildings have been constructed since 1980. Currently, some major projects are under construction which we believe will be exceptional examples of Federal design and construction quality. These projects include the Portland-East, Oregon, Federal Building and the Boston, Massachusetts, Federal Building.

I hope that this information will be satisfactory. If we can be of further assistance, please let us know.

Sincerely,

Bill Sullivan

WILLIAM F. SULLIVAN
Commissioner

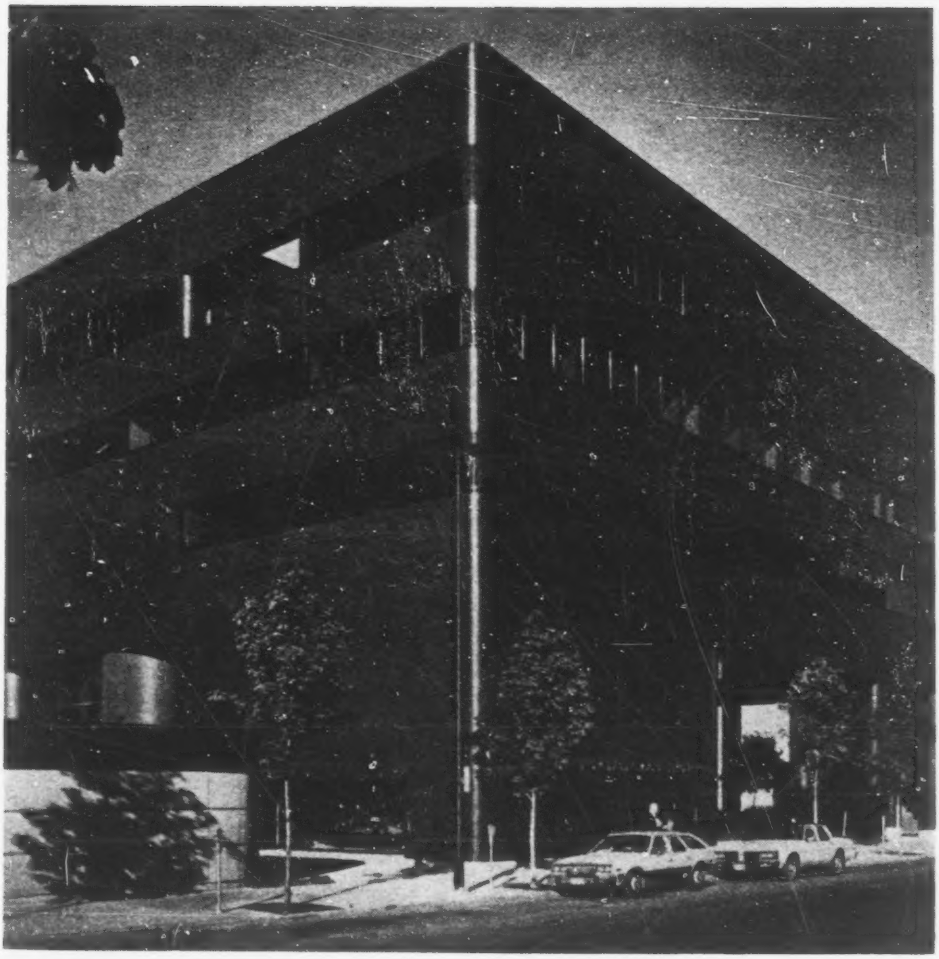
Enclosures

U. S. COURTHOUSE

MADISON, WISCONSIN

The General Services Administration (GSA) completed construction of this Courthouse in July 1984 at a cost of about $8 million. The Courthouse provides 49,875 square feet of occupiable space for the Courts and other elements of the Department of Justice previously housed in an old Post Office-Courthouse in Madison. The building rises five stories above grade in downtown Madison, and is clad with metal-faced panels.

Designed by Kenton Peters of Peters/Orput Incorporated, the U.S. Courthouse can be characterized an an exceptional GSA structure. Internally, the building successfully responds to specific requirements established to promote effective and efficient working courts. Externally, through mass form, color and material, the building relates to its surrounding environment while projecting the image of a serious, yet technologically advanced Federal Courthouse. The combined use of curvilinear shapes, sleek surfaces, and logistical floor layout has allowed the integration of all parts and the creation of a unique and prosperous working structure.



U. S. COURTHOUSE ANNEX
MIAMI, FLORIDA

In June 1983, the General Services Administration (GSA) completed construction of a $22 million annex to the Courthouse in downtown Miami. The 11-story addition contains 128,845 occupiable square feet and has nine new courtrooms, and has an exterior facade of precast concrete panels and a reinforced concrete frame.

Designed by the firm of Ferendino and Grafton, the Annex is an excellent design example of a major GSA addition. The new structure relates very well in scale, rhythm and overall design to the historic Courthouse.

For the first time, GSA used a functional concept of "court stacking," In this manner, the excess space created by the tall ceiling of courtroom levels is minimized and used for ancillary activities, and the main mode of transportation between courtrooms is vertical, cutting down on travel time and distance.

THE METRO WEST BUILDING

BALTIMORE, MARYLAND

The Metro West Building was completed in February 1980, at a cost of $86,652,922. It consists of two five-story buildings (north and south block), which are connected at the third and fourth floors by a bridge-link. There is a plaza area that is open to pedestrian traffic. Additionally, the north building has a tower of eight floors. This complex, including the bridge, has a gross area of 1,351,812 square feet and occupies an 11-acre site. The building houses the clerical processing function of the Social Security Administration's Office of Central Operations.

Designed by joint venture (The Grad Partnership; The Eggers Partnership; Welton Becket and Associates; and Jaros, Baum and Bolles), the Metro West Building is an excellent example of Federal, State and local Government cooperation to provide a quality Federal building. As a direct result of city interests, the building was situated on a site to serve as a major catalyst in the "rebirth" of downtown Baltimore. The structure is an elegant, well articulated complex, and one which has enhanced the western section of downtown Baltimore.

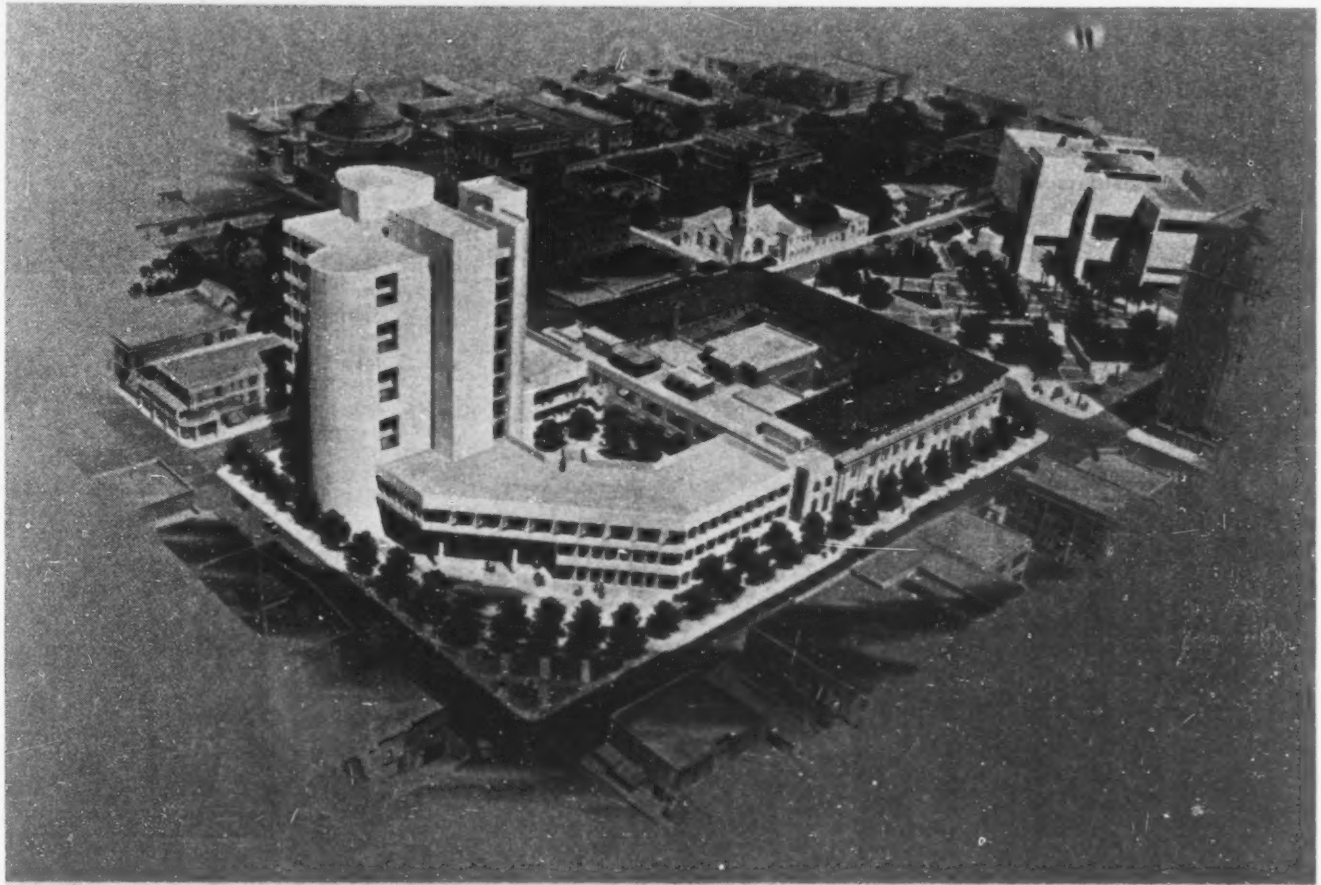
FEDERAL BUILDING, COURTHOUSE AND PARKING FACILITY

ANCHORAGE, ALASKA

This facility consists of a main 8-story building and a series of buildings in a campus-like setting. The project, completed in June 1981, was funded through the "Purchase Contract Program" at a cost of nearly $70 million. The facility has a total of 697,570 square feet and provides 537,600 occupiable square feet of space, and inside parking for 480 vehicles.

The buildings house the U.S. District Courts and a mix of other Federal agencies.

Designed by John Graham and Company, the buildings relate to one another through calculated design and common use of exterior material, namely concrete cladding. An enclosed court with a space frame roof allows sufficient light to allow an abundance of plant growth. The exterior configuration is low in scale and relates well to the surrounding landscape and structures.



UNITED STATES COURTHOUSE
MIAMI, FLORIDA

SOCIAL SECURITY ADMINISTRATION/METRO WEST
BALTIMORE, MARYLAND

THE GRAD PARTNERSHIP
Architecture · Planning · Interiors

Senator CHAFEE. When I look at the list of projects that you have suggested here, Los Angeles, Newark, I wonder how they got there. Why did Los Angeles prevail? Is there some Congressman that badgered you or is there some rating system that you can hold up your hand and say Scout's honor, this really should be built.

Mr. SULLIVAN. I think prioritizing is always a difficult thing, and there is some subjectivity in it. However, the projects that we have in the 1986 budget are basically special purpose facilities, meaning that we have, for instance, the St. Louis records center, U.S. courts, the FDA lab, a border station. The reason they are in the budget is because it is typically more expensive to lease those types of facilities than it is to construct them. Therefore, we gave them priority.

We do have one Federal building in there that is an office building and courts, and that is the new Los Angeles building. We are going to be embarking more on office buildings in subsequent budgets, and that is why it is very important that we work on our prioritizing methodology.

I am not totally satisfied with it, quite frankly, and I think that it will require some additional work. We will work with the committee on that. I know that is a concern of the committee. It was in your Senate legislation. It is a concern of mine, as well. We had a big problem with that at the Veterans' Administration. That is a problem in all Federal construction programs, and it is something that we are just beginning to address in these construction programs. Better planning, better prioritizing, it is all tied together. We are concerned about that. We are looking at it very closely.

Senator CHAFEE. These aren't a generous good-bye present for some worthy Congressman?

Mr. SULLIVAN. Well, this all occurred before my watch at GSA, but my understanding is that these projects are all well justified and, as I indicated, are going to be very cost effective for the Government because of the nature of the space involved.

Senator CHAFEE. Thank you, Mr. Chairman.

Senator STAFFORD. Thank you, Senator Chafee.

Senator Bentsen.

Senator BENTSEN. Mr. Chairman, I have a request from Senator Lautenberg that his question to GSA and the response be made part of the record. Also, Senator Burdick, having visited the Hadley Square building, in Los Angeles, has some extensive comments on his visit and requests they be included in the record.

Then, I would like to say to my friend, Senator Chafee, if you want to see a design disaster on a Federal building, let me invite you to Houston, TX. The Federal building there looks like a pigeon coop. It is anything but an attractive building.

Let me say, Mr. Commissioner, I also question, very seriously, the idea that you choose just current rentals and that you overlook the idea of the availability of a permanent solution to Federal housing by buying a building. When you have a situation where a company is trying to find somebody to buy their building at a discount, if you have the ability to move quickly, as Senator Chafee has talked about, I am delighted. I want to see you have those options. In a situation like Houston's buying a building can be advantageous. I can understand building a building in Austin where you have high rentals and a booming area, but buying a building in

Austin is a tough situation. Houston, Denver, places like that, are targets of opportunity and I am delighted to hear that you have that ability to move. I strongly urge you to consider that.

Mr. **Sullivan**. We will certainly do that. I want to add that we want to get out of leased space as much as possible and into Government-owned space, so that is one of our major objectives, as well, Senator.

Senator **Bentsen**. Thank you.

Senator **Stafford**. Without objection, Senator Bentsen, your request will be made a part of the record.

[The materials from Senators Burdick and Lautenberg follow:]

U.S. Senate,
Committee on Environment and Public Works,
Washington, DC, March 8, 1985.

Hon. Lloyd Bentsen,
Ranking Minority Member, Environment and Public Works Committee, U.S. Senate, Washington, DC.

Dear Lloyd: Over the February Lincoln Senate recess, I visited the proposed Hadley Square Building site in Los Angeles. The site is on government-owned property adjacent to an existing federal building. The General Services Administration is proposing to construct a multipurpose building which later will be part of a planned complex that includes the Federal Bureau of Prisons and a Veterans Administration outpatient medical facility.

The new building will have 560,000 spuare feet of space and include 1,200 parking spaces. The Federal District Court will occupy 100,000 square feet of the building, including ten new courtrooms. Additional space for ten future court rooms has been incorporated into the design.

I was informed by GSA that the court indicated its interest in relocating its entire court operatin to the new building. GSA has refused because the remaining space (400,000 square feet) is needed for other federal agencies.

Unfortunately, the nearby building in which the court now occupies 29 courtrooms is an older historic building. Eventual placement of the building on the National Historic Site Register would place expensive restrictions on any renovation scheme to convert this building into office space suitable for other federal agencies. Therefore, it is not practical to accommodate the court's request because the planned office spaces are not interchangeable.

The proposed Hadley Square Building will improve the ratio of government-owned to government-leased spaces in the Los Angeles five county area from 57:43 to 70:30. Funds in the amount of $137,198 under the Construction and Acquisition of Facilities activity and $12,848 under the Design and Constuction Services activity are being requested in FY 1986. Total estimated project cost is $150,046,000.

GSA's building proposal and plans for a federal complex facility comports with this Committee's recommendation that GSA move towards housing more federal activities in government-owned facilities instead of leasing space. However, the current sideline dispute between GSA and the courts over the use of the proposed building has generated attention. Based on my observation, I support GSA's plans to include only the 20 planned courtrooms in the Hadley Square Building.

While I agree that it makes sense to have all the federal judges in the same building, there just is not enough money to accommodate everyone. The GSA is renting space all over Los Angeles and needs to find suitable permanent office space for many diverse agencies. A split courthouse will occasionally be an inconvenience but not of the manitude described by the court and its supporters.

I would recommend that if the GSA proposal is approved by the Committee that it remain unaltered in terms of planned use.

With kind regards, I am,
Sincerely,

Quentin N. Burdick.

Question From Senator Lautenberg

Question. I am pleased to note the inclusion of $58.6 million in the new construction account for a Federal Building-Courthouse in Newark, New Jersey. As you know, I've been participating in discussions of this projects in the past. The new building is needed to reduce the reliance on expensive leased space and provide a resonable working environment.

Would you provide me with a brief history of GSA's involvement with this project and a description of your plan to complete the project?

Answer. The House Committee on Public Works and Transportation passed an 11(b) resolution on August 3, 1983, directing the General Services Administration to investigate the need for a new building in Newark. Subsequently, on November 18, 1983, GSA sent a negative 11(b) report to the Office of Management and Budget based on a determination that it was more economically favorable to retain the status quo in existing low cost leased space than to construct a small Federal building.

In March of 1984, the Administrative Office of the Courts informed GSA that it had expansion requirements of 109,000 square feet in addition to the space they will maintain in the existing Post Office and Courthouse building. Based on these revised requirements, GSA reevaluated the economic alternatives and determined that new construction should be pursued.

GSA obtained OMB approval and on February 15, 1985, GSA submitted the prospectus to Congress. The prospectus indicates that if approval is obtained this session, design will take place in FY 86, construction to begin in 3rd Quarter FY 87 with completion in 1st Qaurter FY 90. Occupancy would begin thereafter.

Senator **Stafford**. I guess that concludes the testimony. Mr. Sullivan, I want to say that, speaking personally, I am impressed with how much you know about GSA in view of the very short time you have been there.

Mr. **Sullivan**. Thank you very much, Senator Stafford.

Senator **Stafford**. The next witness will be Mr. Davis. I regret to have to tell Mr. Davis and Mr. Haase that we are going to have to wind this up in 20 minutes because all three members of the committee who are here have other engagements that are going to press in on us. So, Mr. Davis, if you could summarize your statement, although it is not all that long, and we will place it in the record.

Mr. **Davis**. I would be delighted to summarize it, Mr. Chairman.

STATEMENT OF CHARLES S. DAVIS, ASSOCIATE ADMINISTRATOR FOR OPERATIONS, GENERAL SERVICES ADMINISTRATION

Mr. **Davis**. I am grateful for the opportunity to appear before the committee, you, Mr. Chairman, and the members, and explain my span of responsibility and role in the Agency.

To summarize the statement and amplify on some elements of it, my office was formed in 1981 by the Administrator then of the Agency shortly after he came in, Gerald Carmen. He found a situation where he had an extensive number of heads of staffs and services reporting directly to him in addition to his own staff. What he did is form a task force or committee of both private sector managers and people experienced at GSA and Government reorganization to take a look at the Agency.

They came up with an organization that had four principal heads underneath Mr. Carmen to coordinate the functions of the Agency in the following areas: Policy, operations, administration, and the controllership. That plan was reviewed by GSA's advisory board which consisted of 22 top executives and business educators from the private sector. Then, it was adopted.

The present structure at GSA is a direct outgrowth of that plan. These executives are either called Associate Administrators or the Controller of the Agency. In essence, they are similar to group vice presidents of a corporation in terms of their functions and span of control.

As the Associate Administrator for Operations, I am one of those executives. My function is to manage GSA's regional operations. These are the regional administrators and their subordinate executives. My function is simply to implement, as effectively and efficiently as possible, the various policy decisions and directives that are promulgated by the heads of GSA's services, such as the Commissioner of the Public Buildings Service and the other ten to twelve policy heads in the Agency.

My function and the people reporting to me neither make policy nor alter it. Our only role in the process is to implement those policies, to provide information on operations to policymakers, or to critique a policy when requested to see how it best can be implemented and provide that comment or recommendation back to the policymakers.

The GSA prospectus process provides a good example of exactly how this works. The people responsible to me, the regional administrators, provide the Commissioner of the Public Buildings Service and his staff with community housing plans and lists of potential repair and alteration projects based on their knowledge of the field. But, it is the Commissioner of the Public Buildings Service and his staff that prioritize those projects, that allocate resources to them, and decide which projects will be built or not built, what the size of the rental space account is and how it should be operated. Once that is decided by the Commissioner, he reviews it with OMB, reviews it with Congress and those plans are adopted. Then he transmits them out to GSA's 11 regions. It is my responsibility to ensure that those regions implement that plan the way it was designed by the Commissioner.

This process is similar to large corporations where the central policy organizations concentrate on determining what product would be produced. A separate organization concentrates on the operations and delivering that predetermined product.

In Mr. Ink's earlier remarks, where he talked about the change in the Agency and how the Agency was now beginning to concentrate on policy matters, we think that this organization helps the Agency not become preoccupied by operations. Now, the heads of the policy organizations are free to concentrate on what GSA's role should be among the other agencies and how they should implement those policies today. These policymakers, such as the Commissioner, are now free of the bias of being the operator and free of the concerns of whether or not their policies are increasing their scope of operations or decreasing them.

This is particularly important as we consider delegations as has been discussed before the committee and, I gather, the committee will be briefed on that policy later by the Commissioner.

There are some added benefits. In GSA, we now have a policy head who can make policy and then critique freely whether that policy is effectively carried out, in other words, can critique to the Administrator how well I am performing my role and the regional administrators are. Likewise, we have a separate organization that when a policy is being promulgated feel very free to critique to the Commissioner of PBS and the other policy heads of the Agency whether or not that policy can be implemented effectively. This is a freedom that most U.S. corporations have as they separate policy from operations. It is a freedom that we have found very effective in GSA.

This dialog in GSA is even more important, however, because GSA, when it goes into operations in the field, tends to have operations that blend various policies together, whether it is the construction of the building or something as simple as an office move. That function involves much more than the policies promulgated by PBS. An office move would involve telephone and computer data communication policies from our Office of Information Resources. It would involve policies regarding furniture acquisition and the type of furniture to be supplied from the Federal Supply and Services. And, it would involve policies on how to contract for services and construction from acquisition policy.

In each of these cases, it is different policy heads within GSA that impact upon something as simple as an office move. So, the operational heads in the field have many policy bosses in GSA. It is my job to make sure that that coordination of policy in the field happens and that one policy head is not coming down a line that would affect and inhibit proper implementation.

In conclusion, my office is strictly concerned with the local implementation of GSA's varied programs in the field locations. In matters of policy, both in development and policy decisions, our function is simply to provide counsel and advice to the GSA program heads, such as the Commissioner of PBS, regarding the operational impact of a policy. Then, once he makes his decision on policy, to assure that approved policies are carried out in a timely and efficient manner.

We believe GSA, over the last 4 years, has shown marked improvement under this system of management. We believe our future is full of additional opportunities to provide quality and efficient service to the over 2.1 million Federal employees in our customer agencies.

Thank you, and I would be prepared to answer any questions.

Senator **Stafford**. Thank you very much, Mr. Davis. In view of our time constraints, I am going to submit some questions to you in writing, if that is agreeable.

Mr. **Davis**. That is fine.

Senator **Stafford**. You can answer them at your earliest convenience, and we would greatly appreciate it.

Mr. **Davis**. Thank you, sir.

Senator **Stafford**. And I will reserve the same right to the other members of the committee if they do have some questions. Thank you very much, sir.

Mr. Haase, we would be very happy to hear from you at this point. Welcome back to the committee.

STATEMENT OF RICHARD O. HAASE, VICE PRESIDENT, THE HOLLADAY CORP., WASHINGTON, DC; AND FORMER COMMISSIONER, PUBLIC BUILDINGS SERVICE

Mr. **Haase**. Thank you, Mr. Chairman, and I will be brief in these remarks.

I was asked to comment on some of the structural organization as it exists at GSA. I really do not want these remarks at all intended to be an indictment of any individuals. It is really the organizational structure I am speaking of.

In a perfect world, I guess you could say that the situation as Mr. Davis outlined it would work. GSA has never been considered to be in a perfect world, and consequently, the Commissioner, without the operational line control, I think, is at best ineffective. What he is is a policy writer. He does not have any kind of operational control to implement. That implementation comes from another office.

Facetiously, I used to say to Mr. Carmen when he was the Administrator when he used to ask me what was wrong with the elevators at Interior, I would tell him that my policy was that all elevators should work. Go talk to Mr. Hammer to see that they were.

It sounds facetious, and it is facetious, but basically that is the situation that you have over there. I don't know of any organization, there may be some, but I don't know of any organization that functions properly or effectively or efficiently without the Commissioner of the Public Buildings Service being responsible for both the policy he writes and the implementation of that policy with the operational control. He has to have hands-on control of that policy and he has to stand up to the Administrator when the Administrator says what is going on with this. Right now, it is split between two organizations under the Administrator for operational control and policy under the Public Buildings Service.

I would be glad to answer any of your questions, but in brief, that is what I wanted to say. Because of my experience there, I found it a limitation.

Senator STAFFORD. Thank you. We appreciate your coming and giving us your advice. We have a couple of questions and some of the other members of the committee may. Would you be agreeable to answering them in writing?

Mr. HAASE. Oh, sure, absolutely.

Senator STAFFORD. All right.

Mr. HAASE. Let me say one other thing. I heard the remark about the beautiful office buildings, and let me say that I think San Jose and the Miami Courthouse are two of the most beautiful buildings in the country.

Senator STAFFORD. I thought for a while Senator Chafee was proposing we have a miniature Hart Building in every town.

Mr. HAASE. Well, I gave him a split across the country that he can travel to anyway.

Senator STAFFORD. Thank you very much, Mr. Haase, and thank all of you.

Mr. HAASE. Thank you.

Senator STAFFORD. The meeting stands adjourned.

[Whereupon, at 11:46 a.m., the committee recessed, to reconvene subject to the call of the Chair.]

[Statements supplied for the record and responses to additional questions follow:]

STATEMENT BY WILLIAM F. SULLIVAN
BEFORE THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
THURSDAY, MARCH 14, 1985

Mr. Chairman, Members of the Committee. It is a pleasure for me to appear before you today to discuss the 1986 Budget for the Public Buildings Service.

I have only been Commissioner for a little over three weeks, so my remarks today are only "preliminary impressions." I offer them as insights to the Committee based on my early observations of the Public Buildings Service.

I want to commend the staff of the Committee for their courtesy and for the information they have shared with me regarding their perceptions of PBS operations.

My experience at the Veterans Administration, where I ran the construction program--which, incidentally, was larger than GSA's current construction program--and my brief tenure at GSA have led me to 3 basic conclusions with respect to Federal Real Property Management.

First, there is a need for more substantive long range planning for Federal facilities. Today, typical planning systems appear loosely structured and oriented to short term solutions, with decisions made on a project by project basis, rather than based on a nationally prioritized program.

Second, we need improved data bases on which to justify individual projects and to set priorities among projects. Without accurate data it is difficult to assess the relative merits of project proposals and to apply limited resources in the most effective manner.

Finally, the end users of the project, for example the tenants in a new Federal Building, are often overlooked in planning and decision making. Not surprisingly, this can result in dissatisfaction with both the process and the product.

There are a number of issues that we need to address in order to work toward eliminating these problems. The Cabinet Council on Management and Administration's Real Property Management Task Group identified several actions to improve the way the Government manages its capital assets. These recommendations include improvement of agency real property plans and integration of these plans with the budget process; improvement in communications between PBS and its clients regarding how Federal Buildings Fund resources are allocated; and strengthening of the GSA oversight and review process for management of general purpose space, with concurrent transfer of responsibility to agencies for acquisition and management of specialized and isolated locations.

GSA will be working closely with the Office of Management and Budget and other agencies in the upcoming months to implement these changes. In addition, we will be working with OMB to develop a management initiative to task agencies to develop real property plans, including prioritization of their space needs, and to tie the call for these plans to the budget process.

We will be developing a locational policy designed to minimize our housing costs by satisfying client agency program requirements in the least expensive space possible, consistent with agency missions. Wherever compatible with agency requirements, GSA will endeavor to locate new leases in lower cost rental areas, rather than higher cost central business areas of major metropolitan communities.

We will be examining the impact of increasing delegations of authority to our clients, both for the acquisition and operation of space. In general, I believe GSA needs to adopt more of a policy role in managing real property and allow agencies to assume increased responsibility for managing the buildings they occupy--particularly those in which they are the sole tenant.

In the Design and Construction area, GSA needs to examine some of the more innovative private sector design and construction techniques, such as use of computer-aided design for development of prototype facilities, and increased use of the design-build concept, which requires only one contract for both design and construction of a project. These techniques could greatly enhance our ability to deliver projects faster and at potentially reduced costs, as a result of time savings and standardization.

We also plan to review PBS' legislative authorities. In that regard, I am personally generally supportive of recent Senate-passed Public Buildings legislation. I found this legislation very instructive, but a little too detailed in the definition of criteria for prioritizing projects. This could tend to restrict GSA's ability to consider additional factors not specified in the legislation. We are examining the Senate Bill in more detail and will work with the Committee over the next few months on any refinements we think might improve this legislation.

I look forward to working with the Committee on these initiatives and hope to make a positive contribution to the management of Federal property.

I'd now like to discuss the specifics of the PBS budget request.

We are requesting $2,396.9 million in new obligational authority for the Federal Buildings Fund in Fiscal Year 1986. $630.6 million is earmarked for our capital budget, which includes new construction and repairs and alterations projects. This represents a major turning point for the Public Buildings Service. Over the past 25 years our capital budget had decreased from 36 percent of the total to 18 percent of the total due to increases in operating costs. These increases were primarily due to the escalating cost of leasing space to house a growing population of Federal employees. In Fiscal Year 1986 we plan to keep our leasing costs at approximately the same level as in Fiscal Year 1985, through an aggressive program to reduce space utilization rates Government-wide and to relocate tenant agencies from leased space to Government-owned space. The impact of these and other efforts to restrain operating costs will allow us to devote 26 percent of our total Fiscal Year 1986 budget to our capital program.

Our 1986 program is based upon a projected income of $2,273.6 million, which provides that SLUC billings will be held to the same levels as in 1985. Our proposed new authority for Fiscal Year 1986 reflects an overall increase of $139.7 million, or 6 percent, over the amount enacted in 1985. This will allow us to initiate 5 new construction projects, continue an aggressive repairs and alterations program, support Federal space reduction initiatives, and adjust to the effects of inflation.

In our 1986 capital program we are proposing to initiate 5 new construction projects: A new Federal Building and Courthouse in Los Angeles, California; an extension to the National Personnel Records Center in Overland, Missouri; a new Federal Building in

Newark, New Jersey; a Food and Drug Administration Laboratory in Seattle, Washington; and a Border Station in Eastport, Idaho. We are also proposing the completion of 4 asbestos abatement projects and the initiation of asbestos abatement projects in 15 other locations across the country.

Our 1986 proposal for operating budget authority reflects an actual decrease of $93.6 million, or 5 percent, from authority provided in 1985. I have already mentioned our plans to hold the Rental of Space budget at approximately the 1985 level. Other GSA initiatives to help us to restrain our operating costs include the transfer of title of 16 Purchase Contract buildings to the Federal Government, our program to delegate authority to client agencies for the operation and maintenance of single-tenant buildings, increased contracting-out of operational activities such as cleaning and maintenance, and in-house productivity improvements.

This concludes my remarks. I would also like to introduce four PBS Officials that I have brought with me today: Ira Jekowsky, my Assistant Commissioner for Policy and Program Support; Al Iudicello, Director of the PBS Planning Task Group; Wolfgang Zoellner, my Assistant Commissioner for Buildings Management; William Lawson, my Assistant Commissioner for Design and Construction; and David Bibb, the Acting Assistant Commissioner for Space Management. I will be pleased to answer any questions you may have.

STATEMENT OF
CHARLES S. DAVIS III,
ASSOCIATE ADMINISTRATOR
FOR OPERATIONS
OF THE
GENERAL SERVICES ADMINISTRATION

Mr. Chairman and Members of the Committee:

As the Associate Administrator for Operations at the General Services Administration (GSA), my purpose today is to provide an overview of the functions, span of responsibility, and role of the Office of Operations in the management of GSA.

The Office of Operations was established by former Administrator Gerald P. Carmen in September, 1981.

Upon his arrival at GSA, Mr. Carmen found that 37 separate offices, services or staff activities reported directly to the GSA Administrator. He was expected to provide day-to-day guidance, review and management to these 37 activities. This was in addition to managing his personal staff, his obligations to meet with Members of Congress, Congressional committees and committee staff members, Executive Branch agencies, GSA vendors, industry groups and associations, labor union officials, members of the press and the public, and his participation on various Executive Branch committees and task forces.

Understandably, Mr. Carmen felt that this situation was not conducive to allow the Administrator to stay abreast of Agency matters, provide strong direction and management of the Agency and honor responsibilities that were expected of him by both the President and Congress.

To rectify this situation, Mr. Carmen appointed a group of experienced managers from within the Agency and the private sector to provide an organizational plan for the Agency. Members of this group included Mr. Ray Kline (former Acting Administrator), Mr. Jerald Fox (Executive Assistant to the Deputy Administrator), Mr. Roger Dierman (formerly with President's Management Improvement Counsel or (formerly assigned to the White House Office of Policy Development)), Mr. Steven Hammer (a Vice-President with Goodyear Tire & Rubber Company) and myself (formerly an executive with Ford Motor Company). This plan was subsequently reviewed and recommended by GSA's Advisory Board, composed of 22 top corporate executives, educators and consultants.

The present GSA organizational structure is a direct outgrowth of this study. In essence, it created four top executives reporting directly to the Administrator to coordinate GSA activities in areas of policy development, operations, administration, and finance. These executives are titled Associate Administrators and comptroller and, in private sector terms, would be the equivalent of the "group vice-presidents" in terms of their functions and span of control. As the Associate Administrator for Operations, I am one of those executives and am responsible for directing GSA's operational activities which are resident in GSA's 11 regions throughout the country. Each region's operating activities are managed on a day-to-day basis in a semi-autonomous, decentralized manner by a Regional Administrator who has subordinate executives for: (1) real property operations, including real estate disposal; (2) personal property including procurement, supply, traffic and travel services; (3) information resources functions and (4) controllership and administrative functions.

The function of my office and GSA's regional activities is simply to implement, as effectively and efficiently as possible, the policy decisions and directives as promulgated by the heads of various functional programs of GSA, including decisions made by the Commissioner of the Public Buildings Service, the Commissioner of Federal Property Resources Service, the Assistant Administrator for Information Resources Management, the Assistant Administrator for Federal Supply and Services, the Assistant Administrator for Acquisition Policy, the Comptroller, and the various office directors of Personnel, Administrative Services, Small and Disadvantaged Business Utilization, and Ethics.

Neither my office nor the regional offices makes policy or alters it. Our only role in the policy making process is to provide information as requested, including counsel and advice on how best to state a policy and allow effective and timely implementation. The various policy heads in the Agency which were listed above, then manage the policy development and decision process in GSA's Central Office which would include appropriate consultation and approvals of OMB and Congress.

Once a decision is made, these policy heads transmit the policy to each region, provide technical guidance in answer to questions, and establish performance goals. The Office of Operations assures that regions perform within established policies and achieve performance objectives.

The GSA prospectus process provides an illustrative example of how this works. Each region provides the Public Buildings Service (PBS) with the community housing plans and lists of potential repair and alteration projects based upon agencies' requests for space and known building conditions in the field. PBS decides on what construction should be proposed to OMB and Congress based upon its determination of the prioritization of regional needs and availability of resources. The budget and prospectuses are submitted by the PBS for approval. Once approved, the PBS informs the regions, sets timetables, and provides funding. PBS also provides technical guidance and concurs in the selection of architects and building designs. Within these parameters, my office and GSA's regional management are responsible for delivering the project on time and within budget.

This process is very similar to many larger corporations whereby the central policy organizations concentrate on managing the process of determining "what product gets produced" and a separate operational organization concentrates on managing the process of "delivering the pre-determined product". An added benefit of this organizational alignment of responsibility within GSA is that GSA operating executives feel freer to surface problems with existing policies to PBS and other Central Office program heads than, they would if these program heads were their direct line managers. Likewise, PBS and other program executives feel freer to critique operating performance in the field than they would if they were directly responsible for operating performance. This in effect assures the Administrator of GSA that an active and constructive dialogue is carried on between policy and operating executives which constantly identifies opportunities to improve GSA's programs and performance.

In GSA, this dialogue is especially important as various policy areas, headed by different Central Office executives, tend to blend together in actual operating activities in the field. For example, an office move not only involves implementation of various PBS policies on assignment, utilization and construction or leasing of office space, but also involves implementation of policies regarding contracting of supplies and services issued by the Office of Acquisition Policy, policies for the procurement of office equipment and furnishings issued by the Office of Federal Supply and Services, and policies regarding telephone and data communciations issued by GSA's Office of Information Resources Managment. In GSA's field operations, our varous programs require close coordination to deliver quality service to GSA's customers. The Office of Operations represents regional concerns within the Central Office on how to operate and coordinate in this environment.

In summary, the Office of Operations is strictly concerned with managing the local implementation of GSA's varied programs in its field locations. In matters of policy development and decisions, its function is to provide counsel and advice to the GSA program heads regarding the operational impact of policy decisions and, then, assure approved policies are carried out in a timely and efficient manner. We believe GSA has shown marked improvement over the last few years under this system of management and believe GSA's future is full of additional opportunities to provide quality and efficient service to the 2,100,000 Federal employees of its customer agencies.

General
Services
Administration Washington, DC 20405

MAR 14 1985

Honorable Robert T. Stafford
Chairman, Committee on
Environment and Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The Acting Administrator has asked me to respond to your letter of February 25, 1985, regarding questions on the Fiscal Year 1986 GSA budget. The answers to those questions are enclosed.

If I can be of further service, please do not hesitate to call upon me.

Sincerely,

Bill Sullivan

WILLIAM F. SULLIVAN
Commissioner
Public Buildings Service

Enclosure

QUESTION

Please discuss in detail the budget request for fiscal year 1986. How do these figures compare to the amounts actually appropriated in fiscal year 1985, and the amounts appropriated in fiscal year 1984?

ANSWER

GSA is requesting Federal Building Fund (FBF) new obligational authority (NOA) in the amount of $2,396,868,000 for fiscal year (FY) 1986. This is 6 percent greater than NOA authorized in FY 1985 ($2,257,201,000) and 17 percent greater than NOA authorized in FY 1984 ($2,043,780,000).

GSA is requesting $630,609,000 for its FBF capital budget accounts in FY 1986 (Construction and Acquisition, Repairs and Alterations, and Design and Construction Services); this represents 26 percent of the total NOA requested for FY 1986. In FY's 1985 and 1984 respectively, GSA requested only 18 and 15 percent of its NOA for capital budget programs. The increase in the portion of the budget programmed for capital activities in FY 1986 is a direct result of initiatives to restrain growth in FBF operating accounts and to increase the amount of occupiable Government-owned space in our inventory, as well as an aggressive program to maintain our existing capital assets in a safe and operational state of repair.

The enclosed summary chart from GSA's FY 1986 Congressional Budget (RP-1) addresses FBF NOA for FY 1984 through FY 1986 by account.

QUESTION

Please discuss the rationale for the increases or decreases in level of funding for fiscal year 1986. In areas where programs are increased, indicate whether these budgetary increases are tied to new agency initiatives or an increase in ongoing programs. Specify what the additional funds will provide. In the programs where reductions have been made, what specific areas of the program will be reduced or eliminated and what will be the effect of these reductions on operation of the program? If there is no change in funding from last year, what changes are made in program priorities?

ANSWER

In the Construction and Acquisition account, GSA is requesting $243,419,000 in fiscal year (FY) 1986 new obligational authority (NOA), or just over twice as much as authorized for FY 1985 ($116,743,000). Last year's approved program included 3 small border station projects and additional funding for the Old Post Office in Washington, DC. under the category of new construction. The FY 1986 new construction program includes a border station, a laboratory for the Food and Drug Administration, and three relatively large projects in Los Angeles, CA; Overland, MO; and Newark, NJ. These three projects account for the major increase in FY 1986 funding. The other significant difference between FY 1986 and FY 1985 is in funding for the building purchase program. GSA's FY 1985 NOA included $82 million for building purchases; the FY 1986 request does not include any additional funding for building purchases. GSA must determine where it can most effectively program its available resources, and believes that the $108 million currently available in carryover funding for this program will be sufficient through FY 1986.

The FY 1986 request for Repairs and Alterations of $264,096,000 is a 20 percent increase over our FY 1985 authorization of $220,701,000. FY 1986 funding for non-line item projects approximates the FY 1985 authorized level at $128,614,000, or 49 percent of the account's request. The FY 1986 line item program includes 26 projects, most of which were funded for design in the FY 1985 budget under Design and Construction Services. FY 1986 funding increases are directed primarily at vacant space alterations; the 10 projects in this category will increase the amount of occupiable Government-owned space in GSA's inventory, and will result in the movement of client agencies out of expensive leased space. Other priority line item projects include 4 asbestos abatement projects, renovation of the historic Pension Building in Washington, DC, and a high-technology pilot project in the Dallas, TX Terminal Annex Building.

GSA's request for $123,094,000 in the Design and Construction (D&C) Services account is more than twice the funding requested and approved in FY 1985. There are four reasons for this apparent major increase. First, it has been determined that required FY 1985 authority for this account was underestimated during budget formulation. Because FY 1985 was the first year that this account was direct-funded, GSA erred in estimating design and management/inspection requirements for prior year project slippages. An FY 1985 FBF reprogramming request has been submitted that will transfer $23.4 million in prior-year project funding from the line item accounts to this account, and will revise FY 1985 authority for this account from $58,883,000 to $82,245,000. This will change the increase from FY 1985 to FY 1986 authority to $40,849,000, or 50 percent, which more accurately reflects the program change between the two years. The second reason for the increase is that FY 1986 increases in Repairs and Alterations and New Construction programs result in a proportionate increase in the D&C Services account, which funds the design and management/inspection of all capital projects. Third, this account includes a large FY 1986 program for the design of future years' repairs and alterations line item projects (35 projects), 15 of which involve asbestos abatement. Lastly, the FY 1986 request includes the functional transfer of personnel-related costs ($3.2 million) of the headquarters Design and Construction staff from Program Direction (this is discussed in more detail under Program Direction).

GSA's FY 1986 request of $135,100,000 for Purchase Contract Payments is $43,811,000 or 24 percent less than FY 1985 authority of $178,911,000. The reduction is caused by two factors. First, there was a one-time change from cash to accrual accounting methods reflected in the FY 1985 budget and costing $25 million. Second, GSA is planning to transfer title of 16 projects now under trusteeship of the American Security and Trust Bank to the Federal Government in FY 1986. This will reduce the Government's FY 1986 tax liability by $7.9 million, and will result in comulative savings of approximately $174 million over the remaining 19-year term of these indentures.

The FY 1986 request of $866,000,000 for the Rental of Space is only $1 million more than FY 1985 authority, and that change reflects an increase in payments to the U.S. Postal Service. The "leveling'off" of this account represents a significant departure from prior-year trends, and projects a 5.7 percent decrease in the GSA leased space inventory, from 88.9 million sq. ft. at the end of FY 1985 to 83.8 million sq. ft. by the end of FY 1986. The FY 1986 program assumes that a rental cost avoidance of #12.9 million will be achieved as some buildings currently leased by GSA are acquired under the building purchase program; that a cost avoidance of $18.2 million will result from reduced space needs of tenant agencies; and that there will be no net expansion space added to the FY 1986 inventory.

The Real Property Operations FY 1986 request of $709,678,000 reflects an increase of $10,998,000 or 1.6 percent from FY 1985 authority ($698,680,000). The FY 1986 level, however, includes two items that should be noted in order to make a true comparison between the two years: the $19.5 million decrease for buildings delegated to client agencies, and the $44.6 million increase due to the functional transfer of program staffs from Program Direction (this will be discussed in more detail under Program Direction). With these two items removed, the FY 1986 request would be $684,600,000, or 2 percent less than FY 1985 authority. The $19.5 million decrease for delegations relates to FY 1985 delegations of headquarters activities to CIA, Agriculture, HUD and FERC, and a planned FY 1986 delegation to the VA. Other programmatic changes include an increase of $11.2 million for operation of net new space

GENERAL SERVICES ADMINISTRATION, FEDERAL BUILDINGS FUND

PUBLIC BUIDINGS SERVICE PROGRAM SUMMARY

FY 1984 - 1986

	FY 1984	FY 1985	FY 1986	CHANGE FY 1985-FY 1986
NEW OBLIGATIONAL AUTHORITY ($000)				
Construction and Acquisition	$186,163	$116,743	$243,419	$126,676
Repairs and Alterations	121,317	220,701	264,096	43,395
Design and Construction Svcs.......	0	59,513	123,094	63,581
Special Projects	0	348	0	-348
Subtotal Capital Programs	307,480	397,305	630,609	233,304
Purchase Contract	139,500	178,911	135,100	-43,811
Rental of Space	847,000	865,000	866,000	1,000
Real Property Operations	647,300	698,680	709,678	10,998
Program Direction	102,500	117,305	55,481	-61,824
Subtotal Operating Programs	1,736,300	1,859,896	1,766,259	-93,637
Total New Obligational Authority....	$2,043,780	$2,257,201	$2,396,868	$139,667
Reimbursable Authority.............	450,000	470,000	532,130	62,130
EMPLOYMENT SUMMARY:				
Direct	11,714	11,857	11,449	-408
Reimbursable	2,436	2,106	2,247	141
Total	14,150	13,963	13,696	-267

in the inventory; $2.5 million savings from energy conservation efforts; $13.8 million projected decrease in fuel and utilities costs; an increase of $11.6 million for inflation; $2 million savings in the cleaning category due to planned productivity improvements and increased contracting for services; an increase of $7.5 million for increased maintenance repair (under $10,000) of an aging inventory; and other miscellaneous program adjustments. The level of service that will be provided to client agencies in FY 1986 will not change from that provided in FY 1985.

The $55,481,000 requested in FY 1986 for Program Direction reflects a reduction of $61,824,000 or 53 percent from FY 1985 authority of $117,305,000. 72 percent of this is not a true decrease, but reflects the transfer of headquarters and regional program staffs (1,330 workyears) to the Real Property Operations and D&C Services accounts. This functional transfer will realign resources in accordance with activities analogous to those currently performed by field personnel under the receiving accounts. The remainder of the FY 1986 decreases ($16,271,000) reflects the absence of one-time FY 1985 ADP_related costs to upgrade Public Buildings Service information systems and office automation capabilities.

GSA is requesting $532,130,000 in FY 1986 reimbursable authority, or $62,130,000 (13 percent) more that in FY 1985 ($470,000,000). An increase of $11,877,000 is needed to meet the expanded cleaning, maintenance, utilities and protection requirements of the National Security Agency at their expanded facility at Fort Meade, MD. The remaining FY 1986 increases ($50.1 million) are caused by changes in estimated tenant agency requirements and inflation.

QUESTION

What personnel increases or decreases are being proposed? How will this affect the agency's ability -- including any additional time it will take -- to carry out its program responsibilities?

ANSWER

The FY 1986 budget reflects a net decrease of 267 workyears (FTE). This is composed of a 408 FTE decrease in the direct program and a 141 FTE increase in the reimbursable program.

The change in direct employment is a function of: A-76 implementation and other productivity improvements (-312 FTE); decreased workload primarily due to building delegations (-147 FTE); other reductions (-7 FTE); expand fire and lifesafety program (+8 FTE); and improve lease administration and inspection of leased facilities (+50 FTE).

The increase in reimbursable employment is due the expanded requirements of the National Security Agency (+355 FTE), offset, in part, by workload decreases due to building delegations (-214 FTE).

These changes will not result in any slowdown in the delivery of services to our customer agencies.

QUESTION

Please discuss any rescissions, deferrals or supplementals requested for FY 1985.

ANSWER

The Federal Building Fund budget includes two supplemental requests and one rescission proposals. The pay supplemental proposes reprogramming $7,781 thousand from the Long Beach, CA construction project for increased salary costs in FY 1985.

The second FY 1985 supplemental requests an additional $4,225 in new obligational authority for payment of construction claims on three projects; Ft. Lauderdale, FL, Columbia, SC, and the Forrestal Building in Washington, DC. There are no project funds available to pay these claims. This supplemental also requests reprogramming of an additional $3,000 thousand from the Long Beach project for the acquisition of a supply depot in Scotia, NY.

Finally, under the terms of the Deficit Reduction Act we are proposing a rescission of $3,204 thousand in new obligational authority for administrative costs including travel, printing and consultant services.

(See attached exhibit comparing current and proposed FY 1985 new obligational authority.)

QUESTION

Please indicate if any legislative initiatives are necessary, or are being considered, to implement any part of the agency's fiscal 1986 budget request. If so, please describe these proposals and specify the budgetary impact of each provision.

ANSWER

No new legislative initiatives are necessary to implement any part of the FY 1986 budget request. However, the FY 1986 new obligational authority requested for Real Property Operations and our FY 1986 Full-Time Equivalency Ceiling are based on increased contracting out of building services, particularly cleaning. If current restrictions on contracting out, as contained in the FY 1985 Continuing Resolution, P.L. 98-473, are not lifted in FY 1986, these spending and employment targets will be difficult to achieve.

QUESTION

Please detail, for reductions taken in accordance with section 2901 of the Omnibus Deficit Reduction Act, and section 515 of P.L. 98-473, the Continuing Resolution, the class where savings will be achieved. Provide detail on the funding levels of those spending categories in FY 1984, FY 1985, and FY 1986. Also, provide object class information detailing where the FY 1986 10% cut in Administration would be achieved and what the funding levels were for those object classes for FY 84 and FY 85.

ANSWER

Deficit Reduction Act

Detail by Spending Category
(dollars in thousands)

Category (Direct & Reimb)	FY 1984	FY 1985 Before Rescission	FY 1985 After Rescission	FY 1986
Travel	$6,107	$7,998	$6,565	$7,443
Printing/ Reproduction	4,070	4,435	3,101	5,513
Consultant Services	1,590	1,395	958	958
Total FBF	$11,767	$13,828	$10,624	$13,914

The Federal Buildings Fund was not subject to the FY 1986 10% cut in Administration required under Section 515 of P.L. 98-473.

QUESTION:

Please provide information on the estimated outlay stream for FY 1986 and beyond with respect to new projects proposed for the FY 1986 program in the following categories: (a) new construction, (b) line item repairs and alterations, (c) non-line item repairs and alterations, and (d) design and construction services.

ANSWER:

FY 1986 AND BEYOND OUTLAY STREAM FOR CAPITAL PROJECTS
(dollars in thousands)

FY 1986 PROGRAM	1986	1987	1988	1989	1990	FUTURE YRS	TOTAL AUTHORITY
New Construction	1,310	39,786	68,671	91,670	37,485	4,497	243,419
Repairs & Alterations							
Line Items	69,096	58,257	8,129	--	--	--	135,482
Non-line Items	77,168	51,446	--	--	--	--	128,614
Design & Construction Services	66,357	40,532	8,634	4,280	2,469	822	123,094

Additional outlay data on individual projects is available upon request.

QUESTION:

Please provide information on the start-of-year and end-of-year unobligated balances for FY 1984, FY 1985, and FY 1986 in the following categories for the repair and alteration program: (a) projects authorized prior to FY 1984, (b) FY 1984 projects, (c) FY 1985 projects (d) FY 1986 projects, (e) Jobs Bill authority, and (f) non-line-item projects.

ANSWER:

(Dollars in thousands)	FY 1984		FY 1985		FY 1986	
	SOY	EOY	SOY	EOY	SOY	EOY
LINE ITEM PROJECTS:						
Auth. prior to FY 1984	188,375	108,025	108,025	47,164	47,164	0
Auth in FY 1984	49,107	38,491	38,491	22,954	22,954	0
Auth in FY 1985	0	0	90,976	20,822	20,822	0
Auth in FY 1986	0	0	0	0	135,482	10,180
JOBS BILL AUTHORITY	100,009	2,443	2,443	0	0	0
NON-LINE ITEM AUTHORITY	53,499	12,364	142,089	11,701	140,315	0
TOTAL	390,990	161,323	382,024	102,641	366,737	10,180

QUESTION

For each new construction and repair and alteration project scheduled for design in FY 1986, provide the year currently scheduled for construction. Please submit similar information for all repair and alteration projects scheduled for design in FY 1985 and not included in the budget request for construction funding in FY 1986.

ANSWER

Construction schedules for new construction projects scheduled for design in FY 1986 are as follows:

	Years Currently Scheduled for Construction
Newark, NJ (FB)	1987 - 1989
Overland, MO (NPRC)	1987 - 1989
Los Angeles, CA (Fed Ctr)	1987 - 1989
Eastport, ID (BS)	1987 - 1988
Seattle, WA (Lab)	1987 - 1989

The repairs and alterations projects scheduled for design in FY 1986 will be scheduled for construction sometime during the period of FY 1987 through FY 1989. A detailed year-by-year plan has not yet been developed because various factors must be considered: project complexity, construction phasing, and projected annual levels of funding for the Repairs and Alterations account. A tentative FY 1987 plan will be developed as a part of the internal budget formulation process later this Spring.

Ten line item projects were included in the FY 1985 Repairs and Alterations design program that are not included in in the FY 1986 budget for construction funding. They are included in GSA's plans for overall prioritization of out-years project scheduling and funding. The ten projects are:

Los Angeles, CA (300 North LA FB)
Washington, DC (West Heating Plant)
East Point, GA (FRC)
Boston, MA (Kennedy FB)
Baltimore, MD (Fallon FB)
Kansas City, MO (2306 Bannister FB)
St. Louis, MO (FC 104)
Ashville, NC (Grove Arcade)
Pittsburgh, PA (Moorehead FB)
Lufkin, TX (FB)

QUESTION

In the budget justification it is claimed that advance design during FY 1985 of line-item repair and alteration projects included in the FY 1986 budget will result in the award of construction contract for these projects in FY 1986. Although separate funding for advance design (Design and Construction Services) was initiated with the FY 1985 budget, whether or not it expedites project completion has yet to be demonstrated. The pattern of obligations for project authorized prior to FY 1984 give some indication of how rapidly funds can be obligated for construction. Design of these projects presumably should have been completed and construction begun during FY 1984. However, the budget justification shows that in excess of $105 million will still be obligated during FY 1985 and FY 1986 against projects authorized prior to FY 1984. Given this pattern, how realistic is the claim that $125,302,000 will be obligated in FY 1986 against $135,482,000 in obligational authority for FY 1986 line-item repair and alteration projects?

ANSWER

From FY 1981 to FY 1984 total project funds (design, construction, inspection) were authorized to GSA for Repair and Alteration projects. Consequently, GSA could not initiate design prior to receiving construction funds. During this time GSA operated under Continuing Resolutions and could not isssue funds to the regions for accomplishment of R&A projects until late November or December. Currently the average time required by GSA to design and award major R&A projects is approximately 23 months. Since GSA did not have the ability to initiate design on projects prior to their full funding and given the current time frame for design and award of construction projects, it is expected that many R&A projects authorized prior to FY 1984 would be awarded in FY 1985 and FY 1986. Conversely, with prior year design now being authorized for R&A projects, it is realistic to expect that GSA will obligate the construction funds shown in the FY 1986 budget in FY 1986. Not all projects will be awarded within that average time frame because each project is unique and various influencing factors within and outside the agency affect te ultimate delivery date. In summation, although obligations planned for FY 1986 are optimistic goals, we do not consider our estimates to be unrealistic.

QUESTION:

A Decrease of $31,134,000 in the rental of space budget activity for FY 1986 is attributed both to the release of 2,918,000 sq.ft. due to reduced agency need and the reclassification of 2,200,000 sq.ft. as government owned when formerly leased space is acquired under the building purchase program. $135,235,000 is available for obligation for building purchases thrugh the end of FY 1985, and no additional funds are requested for FY 86. What is the quality of space which can be purchased for $61.47/sq.ft.? Where is this space located? Also, provide documentation on the leased space to be eliminated from GSA's inventory.

ANSWER

Under the building purchase program (which accounts for $12,900,000 of the $31,134,000 total decrease in the rental of space budget); two buildings were purchased in FY 1984, and a third building has been contracted for purchase in FY 85. A summary of the costs are as follows:

BUILDING	DATE	TOTAL OCCUPIABLE	COST (MIL)	$/SQ.FT.	ANNUAL SAVINGS
Griffin Square Dallas,TX	(2/83)	160,000	$ 7.2	$45.00	$ 800,000
Judiciary Square Washington,DC	(6/84)	85,000	$12.6	$148.00	$1,100,000
IRS/VA Complex Austin, TX	(4/85)	610,000	$27.2	$45.00	$1,600,000
TOTALS:		855,000	$47.0	$55.00	$3,500,000

The average cost per occupiable square foot is not a reliable statistic in determining value received for funds expended. Each building is unique in the type and quality of space which it contains and the associated cost per square foot. A better determination of value is the equvalent annual savings achieved for each purchase in comparison to continuing a lease posture.

With the completion of the Austin purchase (610,000 sq.ft.) in May 1985, GSA will seek additional purchases in targeted city areas to achieve reduction of approximately 1,600,000 occupiable square feet from the leased space inventory. After the Austin purchase, the remaining funds available for building purchases in FY 85 and FY 86 amount to slightly more than $108 million. Based on experience to date, sufficient funds are available to accomplish the reduction goal. Purchases will be targeted for city areas determined to be of high priority for investment purposes. GSA will buy buildings where they are needed at a price which represents significant cost savings in comparison to leasing.

A reduction of $18,234,000 is targeted for the release of 2.9 million square feet of space due to reduced agency need. the 2.9 million square feet of space includes 600,000 square feet of R&A and new construction projects to be delivered by the end of FY 86. This represents a decrease in leased space through conversion to Government-owned space. The remaining 2.3 million square foot reduction in leased space is attributed to reduced agency requirements resulting from the President's work space management initiatives, federal field restructuring, and reduction in agency programs. These reductions will be ocurring throughout the country and will affect most agencies. GSA has been advised by both the Small Business Administration and the Department of Education that they expect to reduce their number of locations.

QUESTION

The justification attributes a $19,482,000 offset against escalating real property operations costs to the delegation to agencies of operational authority over their headquarters facilities in the National Capital Region. What is the significance of this offset when participating agencies receive a credit against their Standard Level User Charge payments for building operation expenses they bear directly?

ANSWER

The $19.5 million offset for building delegations that is included in the FY 1986 Real Property Operations request is the approximate amount that would have been included in the budget if the responsibility for the performance of operations and maintenance functions within these buildings had remained with GSA. In FY 1986, under the provisions of current delegations agreements, participating agencies are to directly fund for the operation of the delegated buildings within their individual appropriations. To the extent that other agencies budget for the operation and maintenance of their own space, there should be a reduction in Standard Level User Charge payments; thus, GSA will not receive income for operations in those cases where such authority is delegated to other agencies.

FY 1986 PRESIDENT'S BUDGET

FY 1985 SUPPLEMENTALS AND RESCISSIONS
(Dollars in Thousands)

BUDGET ACTIVITY	FY 85 PER CON. RES. P.L. 98-473	PROPOSED PAY COST SUPPLEMENTAL	PROPOSED PROGRAM SUPPLEMENTAL	DEFICIT REDUCTION ACT RESCISSION	REVISED FY 85 PROGRAM
Construction & Acquisition	$120,299	-7,781 (1)	4,225 (2)	--	$116,743
Repairs & Alterations	220,701	--	--	--	220,701
Design & Construction Services	58,883	630	--	--	59,513
Special Projects	348	--	--	--	348
Subtotal Capital Programs	400,231	-7,151	4,225	--	397,305
Purchase Contract Payments	178,911	--	--	--	178,911
Rental of Space	865,000	--	--	--	865,000
Real Property Operations	694,998	5,682	--	-2,000	698,680
Program Direction	117,040	1,469	--	-1,204	117,305
Subtotal Operating Programs	1,855,949	7,151	--	-3,204	1,859,896
Total New Obligational Authority	$2,256,180	-0-	4,225	-3,204	$2,257,201

(1) To be transferred from the Long Beach, Ca construction project.

(2) In addition to the increase in new obligational authority for claims, the program supplemental also proposes to reprogram $3 million in FY 1985 authority from the Long Beach, CA construction project for the purchase of the Scotia, NY depot.

QUESTION

Please discuss in detail the budget request for fiscal year 1986. How do these figures compare to the amounts actually appropriated in fiscal year 1985, and the amounts appropriated in fiscal year 1984?

ANSWER

GSA is requesting Federal Building Fund (FBF) new obligational authority (NOA) in the amount of $2,396,868,000 for fiscal year (FY) 1986. This is 6 percent greater than NOA authorized in FY 1985 ($2,257,201,000) and 17 percent greater than NOA authorized in FY 1984 ($2,043,780,000).

GSA is requesting $630,609,000 for its FBF capital budget accounts in FY 1986 (Construction and Acquisition, Repairs and Alterations, and Design and Construction Services); this represents 26 percent of the total NOA requested for FY 1986. In FY's 1985 and 1984 respectively, GSA requested only 18 and 15 percent of its NOA for capital budget programs. The increase in the portion of the budget programmed for capital activities in FY 1986 is a direct result of initiatives to restrain growth in FBF operating accounts and to increase the amount of occupiable Government-owned space in our inventory, as well as an aggressive program to maintain our existing capital assets in a safe and operational state of repair.

The enclosed summary chart from GSA's FY 1986 Congressional Budget (RP-1) addresses FBF NOA for FY 1984 through FY 1986 by account.

QUESTION

Please discuss the rationale for the increases or decreases in level of funding for fiscal year 1986. In areas where programs are increased, indicate whether these budgetary increases are tied to new agency initiatives or an increase in ongoing programs. Specify what the additional funds will provide. In the programs where reductions have been made, what specific areas of the program will be reduced or eliminated and what will be the effect of these reductions on operation of the program? If there is no change in funding from last year, what changes are made in program priorities?

ANSWER

In the Construction and Acquisition account, GSA is requesting $243,419,000 in fiscal year (FY) 1986 new obligational authority (NOA), or just over twice as much as authorized for FY 1985 ($116,743,000). Last year's approved program included 3 small border station projects and additional funding for the Old Post Office in Washington, DC. under the category of new construction. The FY 1986 new construction program includes a border station, a laboratory for the Food and Drug Administration, and three relatively large projects in Los Angeles, CA; Overland, MO; and Newark, NJ. These three projects account for the major increase in FY 1986 funding. The other significant difference between FY 1986 and FY 1985 is in funding for the building purchase program. GSA's FY 1985 NOA included $82 million for building purchases; the FY 1986 request does not include any additional funding for building purchases. GSA must determine where it can most effectively program its available resources, and believes that the $108 million currently available in carryover funding for this program will be sufficient through FY 1986.

The FY 1986 request for Repairs and Alterations of $264,096,000 is a 20 percent increase over our FY 1985 authorization of $220,701,000. FY 1986 funding for non-line item projects approximates the FY 1985 authorized level at $128,614,000, or 49 percent of the account's request. The FY 1986 line item program includes 26 projects, most of which were funded for design in the FY 1985 budget under Design and Construction Services. FY 1986 funding increases are directed primarily at vacant space alterations; the 10 projects in this category will increase the amount of occupiable Government-owned space in GSA's inventory, and will result in the movement of client agencies out of expensive leased space. Other priority line item projects include 4 asbestos abatement projects, renovation of the historic Pension Building in Washington, DC, and a high-technology pilot project in the Dallas, TX Terminal Annex Building.

GSA's request for $123,094,000 in the Design and Construction (D&C) Services account is more than twice the funding requested and approved in FY 1985. There are four reasons for this apparent major increase. First, it has been determined that required FY 1985 authority for this account was underestimated during budget formulation. Because FY 1985 was the first year that this account was direct-funded, GSA erred in estimating design and management/inspection requirements for prior year project slippages. An FY 1985 FBF reprogramming request has been submitted that will transfer $23.4 million in prior-year project funding from the line item accounts to this account, and will revise FY 1985 authority for this account from $58,883,000 to $82,245,000. This will change the increase from FY 1985 to FY 1986 authority to $40,849,000, or 50 percent, which more accurately reflects the program change between the two years. The second reason for the increase is that FY 1986 increases in Repairs and Alterations and New Construction programs result in a proportionate increase in the D&C Services account, which funds the design and management/inspection of all capital projects. Third, this account includes a large FY 1986 program for the design of future years' repairs and alterations line item projects (35 projects), 15 of which involve asbestos abatement. Lastly, the FY 1986 request includes the functional transfer of personnel-related costs ($3.2 million) of the headquarters Design and Construction staff from Program Direction (this is discussed in more detail under Program Direction).

GSA's FY 1986 request of $135,100,000 for Purchase Contract Payments is $43,811,000 or 24 percent less than FY 1985 authority of $178,911,000. The reduction is caused by two factors. First, there was a one-time change from cash to accrual accounting methods reflected in the FY 1985 budget and costing $25 million. Second, GSA is planning to transfer title of 16 projects now under trusteeship of the American Security and Trust Bank to the Federal Government in FY 1986. This will reduce the Government's FY 1986 tax liability by $7.9 million, and will result in comulative savings of approximately $174 million over the remaining 19-year term of these indentures.

The FY 1986 request of $866,000,000 for the Rental of Space is only $1 million more than FY 1985 authority, and that change reflects an increase in payments to the U.S. Postal Service. The "leveling'off" of this account represents a significant departure from prior-year trends, and projects a 5.7 percent decrease in the GSA leased space inventory, from 88.9 million sq. ft. at the end of FY 1985 to 83.8 million sq. ft. by the end of FY 1986. The FY 1986 program assumes that a rental cost avoidance of #12.9 million will be achieved as some buildings currently leased by GSA are acquired under the building purchase program; that a cost avoidance of $18.2 million will result from reduced space needs of tenant agencies; and that there will be no net expansion space added to the FY 1986 inventory.

The Real Property Operations FY 1986 request of $709,678,000 reflects an increase of $10,998,000 or 1.6 percent from FY 1985 authority ($698,680,000). The FY 1986 level, however, includes two items that should be noted in order to make a true comparison between the two years: the $19.5 million decrease for buildings delegated to client agencies, and the $44.6 million increase due to the functional transfer of program staffs from Program Direction (this will be discussed in more detail under Program Direction), With these two items removed, the FY 1986 request would be $684,600,000, or 2 percent less than FY 1985 authority. The $19.5 million decrease for delegations relates to FY 1985 delegations of headquarters activities to CIA, Agriculture, HUD and FERC, and a planned FY 1986 delegation to the VA. Other programmatic changes include an increase of $11.2 million for operation of net new space in the inventory; $2.5 million savings from energy conservation efforts; $13.8 million projected decrease in fuel and utilities costs; an increase of $11.6 million for inflation; $2 million savings in the cleaning category due to planned productivity improvements and increased contracting for services; an increase of $7.5 million for increased maintenance repair (under $10,000) of an aging inventory; and other miscellaneous program adjustments. The level of service that will be provided to client agencies in FY 1986 will not change from that provided in FY 1985.

The $55,481,000 requested in FY 1986 for Program Direction reflects a reduction of $61,824,000 or 53 percent from FY 1985 authority of $117,305,000. 72 percent of this is not a true decrease, but reflects the transfer of headquarters and regional program staffs (1,330 workyears) to the Real Property Operations and D&C Services accounts. This functional transfer will realign resources in accordance with activities analogous to those currently performed by field personnel under the receiving accounts. The remainder of the FY 1986 decreases ($16,271,000) reflects the absence of one-time FY 1985 ADP_related costs to upgrade Public Buildings Service information systems and office automation capabilities.

GSA is requesting $532,130,000 in FY 1986 reimbursable authority, or $62,130,000 (13 percent) more that in FY 1985 ($470,000,000). An increase of $11,877,000 is needed to meet the expanded cleaning, maintenance, utilities and protection requirements of the National Security Agency at their expanded facility at Fort Meade, MD. The remaining FY 1986 increases ($50.1 million) are caused by changes in estimated tenant agency requirements and inflation.

QUESTION

What personnel increases or decreases are being proposed? How will this affect the agency's ability -- including any additional time it will take -- to carry out its program responsibilities?

ANSWER

The FY 1986 budget reflects a net decrease of 267 workyears (FTE). This is composed of a 408 FTE decrease in the direct program and a 141 FTE increase in the reimbursable program.

The change in direct employment is a function of: A-76 implementation and other productivity improvements (-312 FTE); decreased workload primarily due to building delegations (-147 FTE); other reductions (-7 FTE); expand fire and lifesafety program (+8 FTE); and improve lease administration and inspection of leased facilities (+50 FTE).

The increase in reimbursable employment is due the expanded requirements of the National Security Agency (+355 FTE), offset, in part, by workload decreases due to building delegations (-214 FTE).

These changes will not result in any slowdown in the delivery of services to our customer agencies.

QUESTION

Please discuss any rescissions, deferrals or supplementals requested for FY 1985.

ANSWER

The Federal Building Fund budget includes two supplemental requests and one rescission proposals. The pay supplemental proposes reprogramming $7,781 thousand from the Long Beach, CA construction project for increased salary costs in FY 1985.

The second FY 1985 supplemental requests an additional $4,225 in new obligational authority for payment of construction claims on three projects; Ft. Lauderdale, FL, Columbia, SC, and the Forrestal Building in Washington, DC. There are no project funds available to pay these claims. This supplemental also requests reprogramming of an additional $3,000 thousand from the Long Beach project for the acquisition of a supply depot in Scotia, NY.

Finally, under the terms of the Deficit Reduction Act we are proposing a rescission of $3,204 thousand in new obligational authority for administrative costs including travel, printing and consultant services.

(See attached exhibit comparing current and proposed FY 1985 new obligational authority.)

QUESTION

Please indicate if any legislative initiatives are necessary, or are being considered, to implement any part of the agency's fiscal 1986 budget request. If so, please describe these proposals and specify the budgetary impact of each provision.

ANSWER

No new legislative initiatives are necessary to implement any part of the FY 1986 budget request. However, the FY 1986 new obligational authority requested for Real Property Operations and our FY 1986 Full-Time Equivalency Ceiling are based on increased contracting out of building services, particularly cleaning. If current restrictions on contracting out, as contained in the FY 1985 Continuing Resolution, P.L. 98-473, are not lifted in FY 1986, these spending and employment targets will be difficult to achieve.

QUESTION

Please detail, for reductions taken in accordance with section 2901 of the Omnibus Deficit Reduction Act, and section 515 of P.L. 98-473, the Continuing Resolution, the class where savings will be achieved. Provide detail on the funding levels of those spending categories in FY 1984, FY 1985, and FY 1986. Also, provide object class information detailing where the FY 1986 10% cut in Administration would be achieved and what the funding levels were for those object classes for FY 84 and FY 85.

ANSWER

Deficit Reduction Act

Detail by Spending Category
(dollars in thousands)

Category (Direct & Reimb)	FY 1984	FY 1985 Before Rescission	FY 1985 After Rescission	FY 1986
Travel	$6,107	$7,998	$6,565	$7,443
Printing/ Reproduction	4,070	4,435	3,101	5,513
Consultant Services	1,590	1,395	958	958
Total FBF	$11,767	$13,828	$10,624	$13,914

The Federal Buildings Fund was not subject to the FY 1986 10% cut in Administration required under Section 515 of P.L. 98-473.

GENERAL SERVICES ADMINISTRATION, FEDERAL BUILDINGS FUND

PUBLIC BUILDINGS SERVICE PROGRAM SUMMARY

FY 1984 - 1986

	FY 1984	FY 1985	FY 1986	CHANGE FY 1985-FY 1986
NEW OBLIGATIONAL AUTHORITY ($000)				
Construction and Acquisition	$186,163	$116,743	$243,419	$126,676
Repairs and Alterations	121,317	220,701	264,096	43,395
Design and Construction Svcs.......	0	59,513	123,094	63,581
Special Projects	0	348	0	-348
Subtotal Capital Programs	307,480	397,305	630,609	233,304
Purchase Contract	139,500	178,911	135,100	-43,811
Rental of Space	847,000	865,000	866,008	1,008
Real Property Operations	647,300	698,680	709,670	10,990
Program Direction	102,500	117,305	55,481	-61,824
Subtotal Operating Programs	1,736,300	1,859,896	1,766,259	-93,637
Total New Obligational Authority....	$2,043,780	$2,257,201	$2,396,868	$139,667
Reimbursable Authority.............	450,000	470,000	532,130	62,130
EMPLOYMENT SUMMARY:				
Direct	11,714	11,857	11,449	-408
Reimbursable	2,436	2,106	2,247	141
Total	14,150	13,963	13,696	-267

FY 1986 PRESIDENT'S BUDGET

FY 1985 SUPPLEMENTALS AND RESCISSIONS
(Dollars in Thousands)

BUDGET ACTIVITY	FY 85 PER CON. RES. P.L. 98-473	PROPOSED PAY COST SUPPLEMENTAL	PROPOSED PROGRAM SUPPLEMENTAL	DEFICIT REDUCTION ACT RESCISSION	REVISED FY 85 PROGRAM
Construction & Acquisition	$120,299	-7,781 (1)	4,225 (2)	--	$116,743
Repairs & Alterations	220,701	--	--	--	220,701
Design & Construction Services	58,883	630	--	--	59,513
Special Projects	348	--	--	--	348
Subtotal Capital Programs	400,231	-7,151	4,225	--	397,305
Purchase Contract Payments	178,911	--	--	--	178,911
Rental of Space	865,000	--	--	--	865,000
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Subtotal Operating Programs	1,855,949	7,151	--	-3,204	1,859,896
Total New Obligational Authority	$2,256,180	-0-	4,225	-3,204	$2,257,201

(1) To be transferred from the Long Beach, Ca construction project.

(2) In addition to the increase in new obligational authority for claims, the program supplemental also proposes to reprogram $3 million in FY 1985 authority from the Long Beach, CA construction project for the purchase of the Scotia, NY depot.

QUESTION:

Please provide information on the estimated outlay stream for FY 1986 and beyond with respect to new projects proposed for the FY 1986 program in the following categories: (a) new construction, (b) line item repairs and alterations, (c) non-line item repairs and alterations, and (d) design and construction services.

ANSWER:

FY 1986 AND BEYOND OUTLAY STREAM FOR CAPITAL PROJECTS
(dollars in thousands)

FY 1986 PROGRAM	1986	1987	1988	1989	1990	FUTURE YRS	TOTAL AUTHORITY
New Construction	1,310	39,786	68,671	91,670	37,485	4,497	243,419
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Line Items	69,096	58,257	8,129	--	--	--	135,482
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Design & Construction Services	66,357	40,532	8,634	4,280	2,469	822	123,094

Additional outlay data on individual projects is available upon request.

QUESTION:

Please provide information on the start-of-year and end-of-year unobligated balances for FY 1984, FY 1985, and FY 1986 in the following categories for the repair and alteration program: (a) projects authorized prior to FY 1984, (b) FY 1984 projects, (c) FY 1985 projects (d) FY 1986 projects, (e) Jobs Bill authority, and (f) non-line-item projects.

ANSWER:

(Dollars in thousands)	FY 1984		FY 1985		FY 1986	
	SOY	EOY	SOY	EOY	SOY	EOY
LINE ITEM PROJECTS:						
Auth. prior to FY 1984	188,375	108,025	108,025	47,164	47,164	0
Auth in FY 1984	49,107	38,491	38,491	22,954	22,954	0
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Auth in FY 1986	0	0	0	0	135,482	10,180
JOBS BILL AUTHORITY	100,009	2,443	2,443	0	0	0
NON-LINE ITEM AUTHORITY	53,499	12,364	142,089	11,701	140,315	0
TOTAL	390,990	161,323 ✓	382,024 ✓	102,641 ✓	366,737 ✓	10,180 ✓

QUESTION

For each new construction and repair and alteration project scheduled for design in FY 1986, provide the year currently scheduled for construction. Please submit similar information for all repair and alteration projects scheduled for design in FY 1985 and not included in the budget request for construction funding in FY 1986.

ANSWER

Construction schedules for new construction projects scheduled for design in FY 1986 are as follows:

	Years Currently Scheduled for Construction
Newark, NJ (FB)	1987 - 1989
Overland, MO (NPRC)	1987 - 1989
Los Angeles, CA (Fed Ctr)	1987 - 1989
Eastport, ID (BS)	1987 - 1988
Seattle, WA (Lab)	1987 - 1989

The repairs and alterations projects scheduled for design in FY 1986 will be scheduled for construction sometime during the period of FY 1987 through FY 1989. A detailed year-by-year plan has not yet been developed because various factors must be considered: project complexity, construction phasing, and projected annual levels of funding for the Repairs and Alterations account. A tentative FY 1987 plan will be developed as a part of the internal budget formulation process later this Spring.

Ten line item projects were included in the FY 1985 Repairs and Alterations design program that are not included in in the FY 1986 budget for construction funding. They are included in GSA's plans for overall prioritization of out-years project scheduling and funding. The ten projects are:

Los Angeles, CA (300 North LA FB)
Washington, DC (West Heating Plant)
East Point, GA (FRC)
Boston, MA (Kennedy FB)
Baltimore, MD (Fallon FB)
Kansas City, MO (2306 Bannister FB)
St. Louis, MO (FC 104)
Ashville, NC (Grove Arcade)
Pittsburgh, PA (Moorehead FB)
Lufkin, TX (FB)

QUESTION

In the budget justification it is claimed that advance design during FY 1985 of line-item repair and alteration projects included in the FY 1986 budget will result in the award of construction contract for these projects in FY 1986. Although separate funding for advance design (Design and Construction Services) was initiated with the FY 1985 budget, whether or not it expedites project completion has yet to be demonstrated. The pattern of obligations for project authorized prior to FY 1984 give some indication of how rapidly funds can be obligated for construction. Design of these projects presumably should have been completed and construction begun during FY 1984. However, the budget justification shows that in excess of $105 million will still be obligated during FY 1985 and FY 1986 against projects authorized prior to FY 1984. Given this pattern, how realistic is the claim that $125,302,000 will be obligated in FY 1986 against $135,482,000 in obligational authority for FY 1986 line-item repair and alteration projects?

ANSWER

From FY 1981 to FY 1984 total project funds (design, construction, inspection) were authorized to GSA for Repair and Alteration projects. Consequently, GSA could not initiate design prior to receiving construction funds. During this time GSA operated under Continuing Resolutions and could not isssue funds to the regions for accomplishment of R&A projects until late November or December. Currently the average time required by GSA to design and award major R&A projects is approximately 23 months. Since GSA did not have the ability to initiate design on projects prior to their full funding and given the current time frame for design and award of construction projects, it is expected that many R&A projects authorized prior to FY 1984 would be awarded in FY 1985 and FY 1986. Conversely, with prior year design now being authorized for R&A projects, it is realistic to expect that GSA will obligate the construction funds shown in the FY 1986 budget in FY 1986. Not all projects will be awarded within that average time frame because each project is unique and various influencing factors within and outside the agency affect te ultimate delivery date. In summation, although obligations planned for FY 1986 are optimistic goals, we do not consider our estimates to be unrealistic.

QUESTION:

A Decrease of $31,134,000 in the rental of space budget activity for FY 1986 is attributed both to the release of 2,918,000 sq.ft. due to reduced agency need and the reclassification of 2,200,000 sq.ft. as government owned when formerly leased space is acquired under the building purchase program. $135,235,000 is available for obligation for building purchases thrugh the end of FY 1985, and no additional funds are requested for FY 86. What is the quality of space which can be purchased for $61.47/sq.ft.? Where is this space located? Also, provide documentation on the leased space to be eliminated from GSA's inventory.

ANSWER

Under the building purchase program (which accounts for $12,900,000 of the $31,134,000 total decrease in the rental of space budget); two buildings were purchased in FY 1984, and a third building has been contracted for purchase in FY 85. A summary of the costs are as follows:

BUILDING	DATE	TOTAL OCCUPIABLE	COST (MIL)	$/SQ.FT.	ANNUAL SAVINGS
Griffin Square Dallas,TX	(2/83)	160,000	$ 7.2	$45.00	$ 800,000
Judiciary Square Washington,DC	(6/84)	85,000	$12.6	$148.00	$1,100,000
IRS/VA Complex Austin, TX	(4/85)	610,000	$27.2	$45.00	$1,600,000
TOTALS:		855,000	$47.0	$55.00	$3,500,000

The average cost per occupiable square foot is not a reliable statistic in determining value received for funds expended. Each building is unique in the type and quality of space which it contains and the associated cost per square foot. A better determination of value is the equvalent annual savings achieved for each purchase in comparison to continuing a lease posture.

With the completion of the Austin purchase (610,000 sq.ft.) in May 1985, GSA will seek additional purchases in targeted city areas to achieve reduction of approximately 1,600,000 occupiable square feet from the leased space inventory. After the Austin purchase, the remaining funds available for building purchases in FY 85 and FY 86 amount to slightly more than $108 million. Based on experience to date, sufficient funds are available to accomplish the reduction goal. Purchases will be targeted for city areas determined to be of high priority for investment purposes. GSA will buy buildings where they are needed at a price which represents significant cost savings in comparison to leasing.

A reduction of $18,234,000 is targeted for the release of 2.9 million square feet of space due to reduced agency need. The 2.9 million square feet of space includes 600,000 square feet of R&A and new construction projects to be delivered by the end of FY 86. This represents a decrease in leased space through conversion to Government-owned space. The remaining 2.3 million square foot reduction in leased space is attributed to reduced agency requirements resulting from the President's work space management initiatives, federal field restructuring, and reduction in agency programs. These reductions will be ocurring throughout the country and will affect most agencies. GSA has been advised by both the Small Business Administration and the Department of Education that they expect to reduce their number of locations.

QUESTION

The justification attributes a $19,482,000 offset against escalating real property operations costs to the delegation to agencies of operational authority over their headquarters facilities in the National Capital Region. What is the significance of this offset when participating agencies receive a credit against their Standard Level User Charge payments for building operation expenses they bear directly?

ANSWER

The $19.5 million offset for building delegations that is included in the FY 1986 Real Property Operations request is the approximate amount that would have been included in the budget if the responsibility for the performance of operations and maintenance functions within these buildings had remained with GSA. In FY 1986, under the provisions of current delegations agreements, participating agencies are to directly fund for the operation of the delegated buildings within their individual appropriations. To the extent that other agencies budget for the operation and maintenance of their own space, there should be a reduction in Standard Level User Charge payments; thus, GSA will not receive income for operations in those cases where such authority is delegated to other agencies.

General Services Administration
Public Buildings Service
Washington, DC 20405

Honorable Robert T. Stafford
Chairman, Committee on Environment and
Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Enclosed are responses to the questions submitted by your Committee to the General Services Administration following the hearing on March 14, 1985.

If we can be of any further assistance, please do not hesitate to let me know.

Bill Sullivan

WILLIAM F. SULLIVAN
Commissioner

QUESTION

What changes in legal authority are needed to enhance GSA's capacity to administer the program of the Public Buildings Service? Does GSA intend to propose legislation for this purpose?

ANSWER

We are currently in the process of reviewing GSA's legislative authorities in order to identify areas where changes in legal authority would enhance our capacity to manage our real property program. We expect this review to result in development of a comprehensive legislative proposal for the Public Buildings Service.

QUESTION:

What are the current highest priorities of the public buildings program? How have these priorities changed over the past five or ten years?

ANSWER:

The current highest priorities of the public buildings program are:

- o Slow the growth of leased space costs
- o Increase use of Government-owned space
- o Maintain buildings in a safe and operational state of repair
- o Deliver capital projects on time and within budget
- o Provide efficient service at required levels
- o Manage the Public Buildings Service (PBS) in a business-like manner

GSA has increased emphasis on the first two items due to rapidly escalating costs of leased space, which caused rental of space costs to utilize an increasing share of the PBS annual budget (see attached chart) from 1960 to 1985. Slowing the growth of leased space costs will be accomplished by improving lease negotiation techniques, continued implementation of the President's space reduction initiative, ensuring that client agency requests for expansion space are fully justified, and encouraging client agencies to move from leased to Government-owned space wherever possible. Increasing the cost of Governnment-owned space will be accomplished by providing additional high-quality Government-owned space through new Federal construction, purchase of existing commercial facilities, and alteration of vacant space to make it ready for occupancy by client agencies.

GSA has also increased emphasis of the third item through implementation of a comprehensive Fire and Life Safety Program, with special emphasis placed on the acceleration of asbestos abatement in buildings under GSA contol.

Project delivery and providing efficient service have always been an important part of the public buildings program because our primary goal is to provide service to our client agencies. However, we are now devoting our concentration on ways to meet these goals in a more constrained budget environment. This includes the study of private sector business practices and their applicability to the public buildings program, and the implementation of those that can help GSA operate in a more business-like manner.

Question:

How would you rate the accomplishments of the opportunity purchase program to date. What is planned for the remainder of FY 85 and FY 86.

Answer:

I would rate the program as very successful. Since the GSA opportunity purchase program was initiated in 1983 we have purchased 3 buildings at very reasonable prices. We anticipate these purchases will yield annual savings of approximately $3.5 million. The following presents the buildings purchased to date:

Building	Date	Total Occupiable	Cost (MIL)	$/Sq. Ft.	Annual Savings
Griffin Sq. Dallas, TX	(2/83)	160,000	$ 7.2	$ 45.00	$ 800,000
Judiciary Sq. Washington, DC	(6/84)	85,000	$12.6	$148.00	$1,600,000
IRS/VA Complex Austin, TX	(4/85)	610,000	$27.2	$ 45.00	$1,600,000

The current balance is: $107,834,586. With the purchase of the three buildings, GSA has made a good start towards achieving the desired results envisioned by the opportunity purchase program. The building purchases represent significant cost savings in comparison to leasing equivalent space.

In FY 85 and FY 86 with the remaining funds available, GSA will aggressively pursue additional building purchases which will provide the greatest savings to the Government. The purchase program is being further refined to target investment in high priority areas where additional Federal ownership is warranted.

Targeting investment will enable GSA to concentrate limited resources to defined communities, resulting in faster and more efficient analysis of available opportunities.

QUESTION

What steps has GSA taken to address the problem of asbestos in public buildings? What proportion of the resources of the repair and alteration program will be applied to asbestos removal and encapsulation over the next five years?

ANSWER

In 1979, we established a nationwide asbestos control program and issued guidelines for the assessment and control of asbestos in our buildings. We began a survey of Government-owned buildings in 1980, which was completed in 1982, resulting in a requirement to abate asbestos in 45 of our 2,500 buildings. We developed a plan and schedule for the containment or removal of asbestos in our facilities.

We employ control procedures and monitor the air in our buildings with friable asbestos. Most recently, we established a management control program to augment our current program efforts to improve the implementation of policies and procedures now in effect. We are developing further guidelines to clarify our program objectives and the roles of all offices within GSA, nationwide, to carry out these objectives. We are establishing a communication network which informs our client agencies of the presence of asbestos in their facilities and what we're doing about it, and which provides for feedback from client agencies. We have also established an interagency task force, comprised of the General Services Administration, the Occupational Safety and Health Administration, the National Institute for Occupational Safety and Health, the Environmental Protection Agency and the National Bureau of Standards, which is acting as a clearinghouse for obtaining consensus among the Federal community on the control and abatement of asbestos.

We have limitations on leasing, buying and constructing buildings with asbestos materials. We are continuing surveillance of Government-owned facilities and developing a program to obtain surveys to determine the presence and condition of asbestos in currently leased buildings.

Our FY 1986 budget includes design funds in the amount of $19.2 million to start 15 major asbestos projects. Our FY 1986 budget also includes approximately $10 million for construction funds for four major asbestos projects and for funds to cover smaller projects as they occur. Overall, we anticipate a need for approximately $200 million for asbestos abatement from 1983 through 1990.

QUESTION

GSA is administratively changing the way it computes the user charges it receives from Federal agencies occupying GSA-controlled space. What impact will the shift from SLUC to Rent have on the revenues collected into the Federal Buildings Fund?

ANSWER

The planned income level for FY 1987 is approximately $2.4 billion, about a 6% increase over the anticipated FY 1986 income level. Under a continuation of the present SLUC system, the increase from FY 1986 to FY 1987 would also have been about 6% and, assuming no cap on rate increases in outer years, the average annual increases would have reflected the inflation rate. However, in addition to annual inflationary increases, one-third of the inventory would also have been reappraised each year. This process would have continued to result in increases which vary widely from agency to agency.

Under the RENT system, the entire GSA-controlled inventory will be appraised every five years. Moderate adjustments, based on actual operating costs and a partial Consumer Price Index pass-through, will be made in each of intervening four years. We anticipate that this will result in rate increases of roughly 2.0% to 2.5% in these intervening years. A more substantial increase will occur in the sixth year of the cycle, when the inventory is reappraised. The actual amount of the increase will depend on the performance of the rental market.

The RENT system will moderate the increases which would occur under the SLUC system. The pattern of rate changes will be more predictable and will be consistent government-wide, allowing for more effective planning for both customer agencies and GSA.

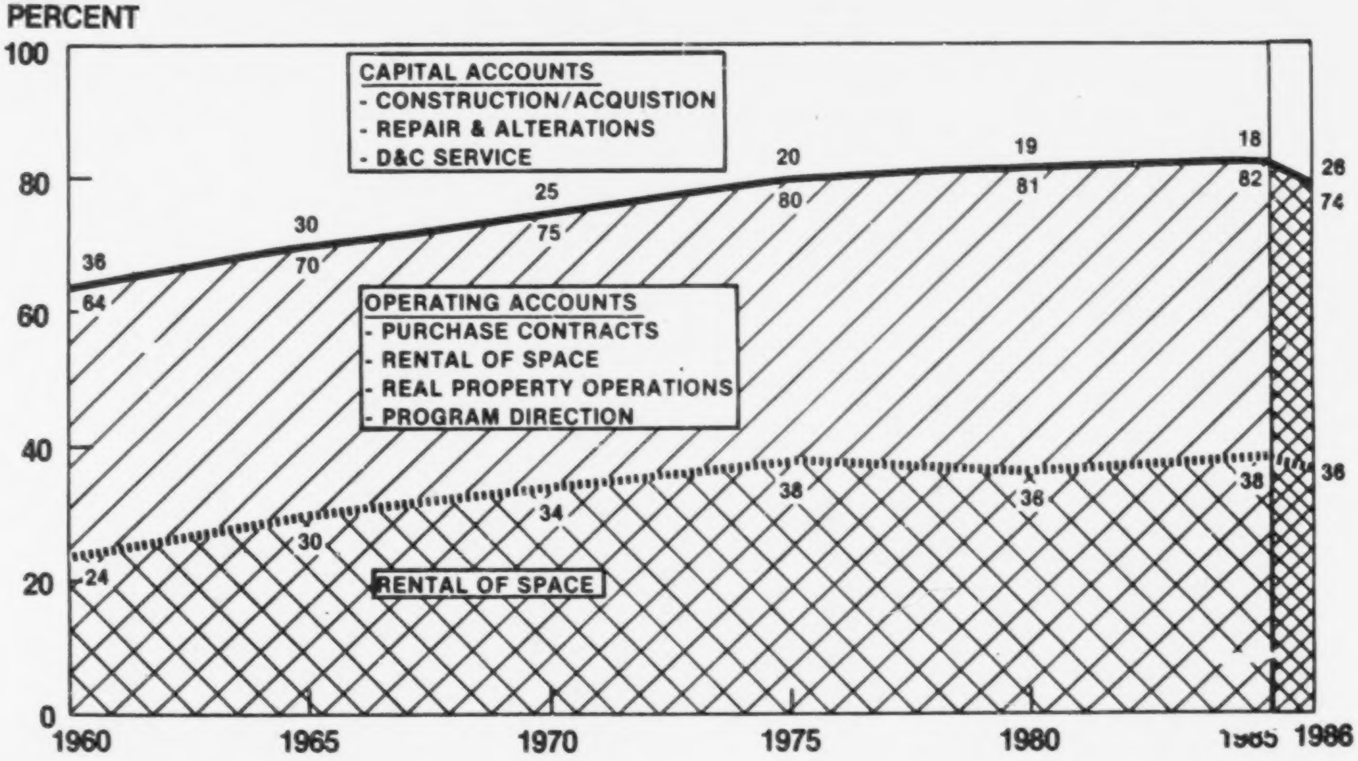
QUESTION

GSA has requested over $33 million to design 35 repair and alteration projects during fiscal year 1986. Construction costs associated with these projects exceed $400 million. When are these projects scheduled for construction? Does GSA have the capacity to assure the timely completion of such a high volume of work?

ANSWER:

These projects are scheduled for construction funding in FY 87 and FY 88. This level of program can be delivered because it consists of only 35 projects. The dollar value of the repair and alteration program is larger, but the number of projects has not changed significantly from previous years. The projects are spread across the regions, and the impact of this increase will not over-burden our current capacity to produce the program since the prospectus program will be designed by contract.

APPLICATION OF PBS BUDGET



Question:

What is the current status of GSA's effort to meet the space needs of the Social Security Administration Data Operations Center in Wilkes-Barre, Pennsylvania? Why has this issue not been resolved in the two years since the Committee first considered it?

Answer:

A lease construction project that was approved by the House Public Works Committee in September of 1982 was rejected by the Senate on December 14, 1982 (Senate Resolution 514). The Senate Resolution commissioned the Corps of Engineers to study SSA's consolidation needs. The Corps of Engineers recommended the purchase and renovation of the Luzerne Products Building, 4 miles away from Wilkes-Barre in Plainville.

In June 1983, the Senate Public Works Committee authorized $14 million for renovations and repairs of buildings acquired by purchase with the intent that the Luzerne Products Plant or any other facility acquired by GSA can be expeditiously made ready for occupancy by the Wilkes-Barre Data Operations Center. (Congressional Record, June 28, 1983. In the Fy 1984 Continuing Resolution (House Joint Resolution 413) the funding of $14 million was approved but the reference to Wilkes-Barre was deleted.

GSA has been unable to negotiate a purchase at a mutually acceptable price (within the range of appraised fair market value), and is therefore reevaluating the alternatives. In addition, at the request of the SSA OMB budget examiner the total requirements of SSA in Wilkes-Barre are being re-examined at this time. All facility alternatives will be re-examined by GSA after resolution of SSA programmatic requirements.

A decision is expected shortly.

QUESTION

The policies and programs formulated by the Commissioner of Public Buildings and his headquarters staff are implemented by GSA's eleven regional offices. How do the regional offices balance accountability to PBS against accountability to GSA's Office of Operations, which has formal authority over the regional offices? Has GSA considered changing this arrangement?

ANSWER

The PBS headquarters staff and the Office of Operations maintain a constant line of communication on all policy and resource-related issues to ensure that regional guidance is approved by both organizations. Once guidance has been issued to the regions, the monitoring of regional implementation is frequently a joint effort between the two organizations, and actual or potential problem areas are jointly discussed to determine the best solution. Under these circumstances, accountability is not really an issue.

GSA has no current plans to change this organizational arrangement.

Question:

What does GSA intend to do with the underutilized Chet Holifield Federal Building in Laguna Niguel, California? Have additional Federal agencies agreed to move their operations into this building?

Answer:

The Chet Holifield Building is a major real estate asset in the LA planning area and an integral part of the long-term housing solution for this community. The building contains approximately 803,000 square feet of occupiable office, light industrial and storage space. Currently 58% of the building is occupied. The economic breakeven point for the building, including the renovation costs proposed in the prospectus, is 51% occupancy.

We plan to make full utilization of this building. Our first priority is full Federal occupancy. Negotiations are in progress with the Immigration and Naturalization Service to occupy 30,000 - 35,000 square feet of space in the building. We are also pursuing outleasing solutions. GSA is currently on the market to outlease space in the building not occupied by Federal agencies. We are marketing the space through the Carlsbad, California, offices of Coldwell Banker, Inc.

GSA has requested prospectus approval for an $8.3 million R&A project (R&A Prospectus submitted to Congress in September 1984) which would renovate interior space not yet "finished out" for occupancy. These costs were accounted for in the economic analyses and subsequent decisions to maintain this building in Government inventory.

QUESTION

GSA has requested $ 6.7 million to complete the renovation of the Pension Building in Washington, D.C. This amount and the $7.3 million already appropriated for this project constitute the $24 million authorized on December 12, 1980 by Public Law 96-515. What effect has the passage of time had on the renovations planned for the building or the resources needed to accomplish them?

ANSWER:

The original plan for the Pension Building was very conceptual in nature. As the program has been refined, the renovations required have been revised to meet the current proposal for museum and Federal office space. The work proposed can be accomplished within the total $24 million budget.

Immediate problem areas, such as the leaking roof were corrected under the first phase of the project. Building systems and special space requirements will be accomplished within the FY 1986 appropriation request.

QUESTION:

Has an agreement been reached between GSA and the National Building Museum regarding the occupancy of unused space in the Pension Building by Federal Agencies with programs compatible with the museum's mission? How much space, representing what percentage of the Pension Building's occupiable area is being considered for federal use?

ANSWER:

A co-operative use agreement for the Pension Building was signed between the National Building Museum and GSA approximately 2 years ago. The agreement is currently being updated and modified. GSA willassign tenants to the building which are appropriate for the type of facility and in keeping with the co-operative use aspects of the structure. The plan is for Federal office space to be approximately 100,000 square feet and 18,000 square feet of museum space. Federal space will be 85% of the total occupiable area.

Question:

GSA has requested authority to lease space in the metropolitan Washington, D.C. area to consolidate the operations of the Nuclear Regulatory Commission. Given the amount of space required -- almost 500,500 square feet -- and the annual rental cost -- almost $14 million -- is leasing the most cost-effective approach to meeting the NRC's needs.

Answer:

Leasing is the most cost effective short term action that can be taken for NRC. Therefore, a lease prospectus was submitted to Congress on February 15, 1985. It proposes leasing 494,975 square feet of space for NRC in order to consolidate 10 of the 11 locations currently housed in 545,141 square feet of space. A 50,000 square foot reduction in NRC's space holdings will be realized from the consolidation, after absorbing over 100,000 square feet of new special purpose space. NRC's current leased locations expire over the next 3 years. Lease authority is required to ensure continued housing for NRC and to achieve cost savings through utilization improvement. The NRC lease consolidation will result in an office space utilization improvement from 204 square feet per person down to 135 square feet per person.

An ownership solution covering the full consolidation needs is being explored and will be fully analyzed in our next planning cycle.

Question:

Please explain the differences between the proposed project to construct a Federal Building-Courthouse in Los Angeles, California, as described in Prospectus Number PCA-86010 and as described in the Los Angeles Federal Center Master Plan. The plan proposes a two phase construction project, Phase I being a 4 level garage with 645,000 gross square feet and Phase II being a 15 level FB and CT with 826,099 gross square feet. Total cost of both phases was estimated to be $134,510,000. The prospectus outlines a project which is smaller by 241,099 gross square feet and yet costs $2,688,000 more.

Answer:

The differences cited above are found in a comparison of the prospectus as submitted to the Committee and a "concept" master plan which was published by GSA in June 1983, nearly two years ago, to show the feasibility of locating three major buildings on the site.

The conceptual master plan was based on the best available information at the time, but certain assumptions that were made (such as soil conditions, site access points, etc.) have now been superceded by hard engineering data and cost figures. These were compiled by an architectural firm under contract to GSA to complete the Final Master Plan (completed in February 1985). The Plan is being printed.

The gross square footage (gsf) projected for the facility described in the prospectus is less than that shown in the Concept Master Plan. This is attributable primarily to the different approach being taken with parking. The parking garage was to be built to accommodate over 1800 cars - sufficient for the needs of both the Veterans Administration (VA) Outpatient Clinic and the Federal Building-Courthouse (FB-CT). Present plans call for the VA facility to be built with its own parking for approximately 550 cars. The FB-CT parking facility will accommodate 1200 vehicles. This accounts for the majority of the 241,099 gsf difference.

Question:

The following are the comparative costs per gross square foot of major construction projects included in the Fiscal Year 986 budget: Federal Building-Courthouse, Los Angeles, California -- $111.54; Records Center Extension, Overland, Missouri -- $111.72; and Federal Building-Courthouse, Newark, New Jersey -- $145.84. Why does an extension to a records center in Missouri cost as much to construct per square foot as a Federal building in Los Angeles? Why does a Federal building in Newark cost $34 per square foot more to construct than one in Los Angeles?

Answer:

Part 1. The Records Center extension is basically office space including computer support space. Overland has been selected as a "High Tech" project and the estimate includes High-Technology furniture and telecommunication systems. Also, the proposed Records Center extension requires floor heights of 15 feet to match the existing building.

Part 2. The proposed Los Angeles project includes approximately 33.3% parking space as compared to 10.7% for the Newark project. The majority of the space in the Newark project is finished Court and Court support space. The Los Angeles project includes a much lower percentage of finished Court space. Newark, being a smaller building, will have a higher gross square feet unit cost.

QUESTION

The proposed project for the replacement of the deteriorating fiberglass ductwork for heating, ventilating and air-conditioning in the Hawthorne Federal Building is given a prospectus justification which cites inadequate air circulation and consequent employee discomfort. Is there a health hazard associated with fiberglass deterioration? Can airborne fiberglass particles pose a risk to employees similar to that posed by asbestos? The prospectus provides for the replacement of 100% of the primary ductwork but only 10% of the secondary ductwork. Are there disadvantages or future risks associated with less than total replacement of the fiberglass? Are there other Federal buildings with similar problems?

ANSWER:

The fiberglass ductwork panels at the Hawthorne Federal Building are not deteriorating, however, they have bowed out, and the joints have opened up. Generally, the panels are covered with a surfacing material, and fibers are not becoming airborne. Studies by the National Institute for Occupational Safety and Health have revealed no evidence of adverse affects on humans from fiberglass fibers. At this time, there are no known future risks involved with replacing only a portion of the secondary ductwork. The damaged elements will be replaced, and the system will then operate efficiently. Hawthorne is the only building in our inventory with a total fiberglass ductwork system. Some buildings do have selected elements of fiberglass ducts as either partial or special zone applications.

QUESTION

The design prospectus for alteration of the Federal Building at 300 North Los Angeles Street, Los Angeles, California, proposes initial space alterations for 13 courtrooms and adjunct facilities for the Bankruptcy Courts as well as space alterations for other relocated agencies. The court-related portion of the project cost $4,675,000 to prepare 68,000 sq. ft. of space for court use, or $68.75/sq.ft. A similar project is included in the prospectus for the Denver Federal Building. To provide space to house the Bankruptcy and Tax Courts $4,072,700 is the projected cost for altering 21,710 sq.ft., or $187.60/sq.ft. Why the enormous discrepancy in the cost per square foot of these two projects. The difference appears even more extreme given 215 court personnel to be housed in Los Angeles compared with 43 in Denver. Space utilization for the court areas in both buildings is highly inefficient: 316 sq.ft./employee in Los Angeles and 505 sq. ft./employee in Denver. Please explain. Also, why have no funds been requested for the Los Angeles Federal Building for fiscal year 1986.

ANSWER:

The difference in cost between the two Bankruptcy Courts projects in the Federal Building in Los Angeles and the Customhouse in Denver are the result of the types of buildings involved in each renovation. The Denver project is in a building on the National Register of Historic Places, the space to be converted is currently laboratory areas, and the building and its systems are in a state of greater deterioration than the Los Angeles building. In Los Angeles, the building was constructed in 1965 and is general purpose office space. It has no special features to protect nor special space to convert to courts use.

The space requirements submitted by the Administrative Office of the U.S. Courts have been translated into the prospectus document. Since the courts are not a part of the executive branch, they are not subject to the space reduction guidelines for Federal agencies. GSA provides the amount of space requested by the courts.

Based upon the complexity of the design and the need to obtain leased space for displaced agencies from the Los Angeles building, the construction funds will not be required in FY 1986.

QUESTION

The prospectus for repairs and alterations of the District Heating System is dated February 13, 1981 and presents the proposed project in omnibus fashion notwithstanding piecemeal requests by GSA for authorization of its component parts. What confidence can be placed in at least 4 year old cost estimates contained in this prospectus? What specific work is being proposed for the $13,796,000 requested for fiscal year 1986?

ANSWER:

The prospectus includes three separate authorization amounts for the District Heating System. It provides for work in the Central Heating Plant, West Heating Plant, and the connecting Steam Tunnel Complex. The prospectus has been planned as a total system with different phases to be accomplished over a series of years. The entire complex cannot be shut down totally or GSA Government-owned buildings, District of Columbia Government buildings, and selected quasi-government buildings in the District would be closed.

Prior to upgrading the plants themselves, the tunnel complex will be repaired with the $13,796,000 request for FY 1986. The work in this seven mile system includes structural repairs to the defective concrete tunnels; replacement of steam piping and valves; new insulation on all steam lines; installation of new electrical wiring and panels; and the major relocation or replacement of tunnel sections.

QUESTION

A primary purpose of the prospectus for the repair and alteration of the U.S. Post Office and Courthouse in Fort Wayne, Indiana is to convert vacated postal workroom space to add new space and facilities for use by the U.S. Courts. The comprehensive housing plan for the building indicates that both the present and the proposed occupiable space for the courts totals 14,400 sq. ft. Please explain this apparent contradiction.

ANSWER:

The housing plan submitted last year with the prospectus project for Fort Wayne, Indiana, included an error in the housing plans for the U.S. Courts. The present space assignment is 11,892 square feet for 16 employees and the final layout will be 17,792 square feet for 24 employees. A copy of the correct housing plan is attached.

QUESTION

Four prospectuses submitted last year for design but not included in the fiscal year 1986 budget request included proposals to remove asbestos and/or meet fire safety requirements in Federal buildings located in East Point, Georgia; Baltimore, Maryland; Boston, Massachusetts; and Pittsburgh, Pennsylvania.

In the case of the George H. Fallon Federal Building in Baltimore the following justification for proposed asbestos removal and encapsulation is provided: "Due to the combination of high friability, potential for disturbance during repairs and direct air stream against the asbestos in the return air plenum above the ceilings, there is a potential exposure throughout the entire building. In most areas, the deteriorating asbestos is exposed for direct and indirect contact." Installation of automatic sprinklers is also proposed for this building and is the type of project which must be appropriately coordinated with asbestos removal activities.

Why have the Baltimore project and the three others which directly affect the health and safety of Federal employees and citizens using these buildings not been included in the fiscal year 1986 budget request? If funding is to be requested for fiscal year 1987, why has this information not been provided?

ANSWER:

The four projects in the health and safety program which were planned for design funding in FY 1985 but are not in the FY 1986 Repair and Alteration request are described below.

a. The current contact schedule for the firesafety improvements at the Records Center in East Point, Georgia, indicates on FY 1987 award. Funds would not be required until then.

b. The scope of the project at the Kennedy Federal Building in Boston has increased from high-rise firesprinklers to include asbestos removal, new ceilings, lights, partitions and flooring. It has been included in the Design and Construction Services request for FY 1986. Construction is planned for FY 1987.

c. The cost of the asbestos abatement and firesprinkler projects for the Fallon Federal Building, Baltimore and the Moorehead Federal Building, Pittsburgh are increasing dramatically. These costs have not been finalized to date. The contracts are planned for award in FY 1987. Revised prospectuses with the new costs will be submitted in the next planning cycle.

QUESTION

The fiscal year 1986 budget request for repairs and alterations to the Federal Building-Courthouse in Lafeyette, Louisiana exceeds the amount proposed in the design prospectus submitted last year by $400,000. What accounts for this discrepancy?

ANSWER:

Since the submission of the prospectus, additional special courts needs have been identified. The $400,000 represents a new security elevator for the Marshal to transport prisoners out of contact with the general public; expansion of the jury room to provide restrooms to preclude compromising jury deliberations by contact with the public; additional spaces for the Marshal lock-up and office areas; and additional circulation area for court security and firesafety egress.

QUESTION

The proposal to convert vacated U.S. Postal Service space in the U.S. Post Office and Courthouse in Pittsburgh, Pennsylvania to general purpose office space received no appropriation for fiscal year 1985 despite its inclusion in GSA's budget request. An addendum to the fiscal year 1986 budget justification for repairs and alterations indicates a line item appropriation of $8,672,000 for this project for fiscal year 1986. However, this amount is not included in the budget request for the same fiscal year. What is the actual status of funding for this project?

ANSWER:

Design funding was provided in FY 1983 for the Post Office and Courthouse in Pittsburgh. The scope of the project is increasing so as to reclaim more of the space in the building than that in the original prospectus. A revised prospectus with a new scope and cost is being prepared for submission. Project construction is planned in FY 1987.

BUILDING NAME U.S. Post Office and Courthouse	ADDRESS 1300 S. Harrison Street Fort Wayne, IN	BUILDING NUMBER IN0031ZZ

Department or Agency	Present Housing		Proposed Housing	
	Personnel	Occupiable Square Feet	Personnel	Occupiable Square Feet
Congressman Quayle	8	1,582	8	1,582
J.D. U.S. Marshal	2	945	2	945
J.D. U.S. Attorney	7	1,933	7	1,933
J.D. FBI	4	994	4	994
U.S. Courts	16	11,892	24	17,792
GSA - ADTS	0	630	0	630
Civil Service Commission	3	1,384	3	1,384
L.D. Bureau of Apprentice Training	-	-	2	533
L.D. Employment Standards Admin.	-	-	2	336
Railroad Retirement Board	-	-	2	409
HEW - Food and Drug Administration	-	-	2	375
HEW - SSA - BHA	-	-	8	3,109
T.D. Internal Revenue Service	-	-	48	7,836
T.D. Savings Bonds	-	-	1	285
T.D. Alcohol, Tobacco and Firearms	-	-	4	655
DOD - DSA - DCAS	-	-	57	8,900
Interstate Commerce Commission	-	-	2	577
USA - AFR Area Office	-	-	4	525
Joint Use Vending Area	-	-	N/A	1,200
Vacant Unassigned	-	52,640	-	22,000
TOTAL	40	72,000	180	72,000

PROSPECTUS LOCATION: CITY AND BUILDING	PROSPECTUS LIMITATION	THROUGH FY 1983	LIMITATION REQUEST			
			FY 1984	FY 1985	FY 1986	UNREQUESTED BALANCE
Cleveland, OH FB/CT	3,431	975				0 2/
Columbus, OH PO/CT	5,020	348				0 2/11/
Oklahoma City, OK FB/CT	2,777 1/	0			2,416	361
Portland, OR CT	7,187	7,187				0
Philadelphia, PA 5000 Wissahickon Av.	3,100 1/	0		2,635		0 9/
Pittsburgh, PA PO/CT	9,728 1/	753		0	0	0 9/
Scranton, PA PO/CT	4,358 1/	0			3,863	0 9/
Hato Rey, PR FB/CT	3,133 1/	3,133				0
Hato Rey, PR FB/CT	1,683 1/	0			1,683	0
Charleston, SC PO/CT	1,201	1,001				200 11/
Greenville, SC CT	1,750	1,500				250 11/
Nashville, TN Union Station	7,152	275	1,500			0 8/
Dallas, TX Cabell FB/CT	900	500				400 11/
Dallas, TX Cabell FB/CT	4,534 1/	0			3,943	591
Dallas, TX Terminal Annex	7,997 1/	7,997				0
Dallas, TX Terminal Annex	4,600 9/	0			4,600	0
Ft. Worth, TX Wahe #5	808 1/	0		710		0 9/
Ft. Worth, TX Wahe #1	2,254 1/	0			1,986	268
Houston, TX FB/CT	2,446	1,746				700 11/
San Antonio, TX PO/CT	6,805 1/	0			6,078	0 9/
Ogden, UT IRS	6,397 1/	3,057	3,036			0 3/
Salt Lake City, UT PO/CT	2,651	2,651				0
Alexandria, VA PO/CT	3,000	1,550		1,370		0
Arlington, VA Heating Plant	3,700 7/	0				0 2/
Arlington, VA Pentagon	21,289	8,432				0 2/
Arlington, VA Pentagon	5,117	0		4,602		0 9/
Charlottesville, VA Federal Exec. Inst.	800 1/	800				0
Franconia, VA Supply Depot, Building A	6,141	318				0 2/11/
Franconia, VA Supply Depot, Building B	2,991	727				0 2/
Hybla Valley, VA FB	1,627 1/	1,627				0
McLean, VA CIA	6,317	2,946				0 2/
Norfolk, VA PO/CT	6,703 1/	6,703				0
Richmond, VA FB	1,125	0			1,125	0 9/
Seattle, WA FC South	8,175	895				0 2/
Seattle, WA FB/CT	4,388	4,388				0 3/
Yakima, WA FB/CT	2,363 1/	1,338	1,025			0
Huntington, WV PO/CT	3,628	3,243				0
TOTAL	897,649	308,185	35,107	90,976	135,482	54,148

QUESTION:

The prospectus for the repair and alteration of the U.S. Post Office-Courthouse and Customhouse in Louisville, Kentucky, proposed the upgrading and conversion of vacant U.S. Postal Service space in the basement on the first floor to provide additional general purpose office space. Comparison of the present and proposed housing for the building shows a decrease of 45 in the total number of personnel occupying offices and an increase in the amount of vacant space from 34,953 square feet to 49,936 square feet. What justification exists for a space conversion project which increases the yield of vacant space and decreases the total number of building occupants?

ANSWER:

The housing plan for the Louisville, Kentucky, PO-CT-CU was prepared at a point in time and reflected the current and planned housing situations. GSA responds to agency space needs, and housing plans thus change during project authorization, funding, and accomplishment. A copy of the most recent data available is attached which indicates an increased tenancy and a reduction of vacant space upon project completion. The number of tenants will increase by 127 up to 1,195, and the vacant space will decrease by 10,749 square feet down to 18,710 square feet.

PROSPECTUS NUMBER: PKY00452
BUILDING NUMBER = KY0045ZZ

EXHIBIT B
COMPREHENSIVE HOUSING PLAN

U.S. POST OFFICE-COURTHOUSE-CUSTOMHOUSE LOUISVILLE, KENTUCKY

Department or Agency	Present Personnel	Present Occup. Sq. Ft.	Proposed Personnel	Proposed Occup. Sq. Ft.
U. S. Courts	112	53,025	142	69,410
Department of the Treasury	503	89,006	485	86,002
Department of Defense	46	12,306	46	15,190
Drug Enforcement Agency	9	2,200	9	2,000
Department of Justice	42	2,786	43	2,826
Office of Personnel Mngt.	1	253	2	253
Interstate Commerce Comm.	3	917	3	917
U.S. Postal Service	16	15,334	-	-
Department of the Interior	8	4,864	10	4,864
Department of Labor	-	210	10	2,010
Equal Employment Commission	15	2,499	10	2,700
General Services Admin.	23	4,410	26	4,410
U.S. Tax Court	2	1,696	-	1,696
Department of Commerce	5	1,304	5	1,304
Veterans Administration	-	1,469	-	1,469
Health & Human Services	67	15,955	128	20,200
Dept. of Housing & Urban Development	191	29,000	191	23,000
Department of Agriculture	25	6,150	39	7,682
Federal Mediation & Conciliation	-	-	2	400
Geological Survey	-	-	44	7,800
Vacant	-	29,459	-	18,710
TOTAL	1,068	272,843	1,121	272,843

QUESTION

Among the repair and alteration projects for design during fiscal year 1985 is the John F. Kennedy Federal Building in Boston. The prospectus on this project proposes as the sole work item the installation of an automatic sprinkler system throughout the building to meet code requirements. This building is listed again for fiscal year 1986 as a project scheduled for design. The project description includes the installation of sprinklers as well as the upgrading of mechanical systems and other improvements. Why are funds being sought twice for the design of the same sprinkler system?

ANSWER:

The scope of the Kennedy Federal Building project in Boston has increased from a high-rise sprinkler system installation to asbestos removal, sprinklers, ceilings, lighting, flooring, partitions, and mechanical/electrical sysem improvement. The design amount requested in FY 1985 was not sufficient to accomplish this new project scope so design was again requested in the FY 1986 budget.

QUESTION

The prospectus proposing repairs and alterations of the U.S. Post Office in Manchester, New Hampshire, indicates that vacant first floor postal workroom space is to be converted for use by the U.S. Bankruptcy Court. The housing plan for the building indicates that basement storage space is being used for this purpose. Which is correct?

ANSWER:

The Bankruptcy Court space in the Manchester, New Hampshire, Post Office will be constructed on the first floor as described in the prospectus. The last entry on the housing plan should have read "Basement Storage and Vacant." Basement space in this building would not be appropriate for a court operation.

QUESTION

The prospectus proposing major renovation of the U.S. Post Office-Courthouse in San Antonio, Texas, is dated February 2, 1982. Included in the fiscal year 1986 budget request is a line item amount for the construction phase of this project identical to that provided in the prospectus. How valid is this at least three year old estimate of the cost to complete the building renovations?

ANSWER:

The San Antonio Post Office-Courthouse prospectus submitted in 1982 was planned for design initiation in FY 1985 and construction in FY 1986. The cost estimates prepared at the time of submission included appropriate escalation factors so that the cost included in the document is still valid. Inflation may vary somewhat from original projections; however, GSA has the authority to deal with any increases up to 10 percent internally by escalating a project if it becomes necessary.

QUESTION

Please explain why the work contained in the original prospectus repair and alter the Hato Rey Complex in San Juan, Puerto Rico, was never completed? What modifications were requested by the U.S. District Court judges who, since 1976, have refused to move from the Old San Juan Post Office-Courthouse to occupy the newer court facilities at Hato Rey? Of the $3,133,000 appropriated in the fiscal year 1983 Continuing Resolution, how much has been obligated to date? Of the $1,683,000 requested in the pending prospectus amendment, how much is needed to meet requirements which could not reasonably have been anticipated during preparation of the fiscal year 1983 program?

ANSWER:

In working with the courts to define the detailed project requirements for the design of the Hato Rey Complex renovation additional courts needs were identified. The original $3,133,000 appropriation is still available except for $23,439 which has been obligated. Physically, the construction was never started so that the following changes could be incorporated; expansion of a mini-courtroom to a full District Court, provision of an additional judge's chamber, relocation of the U.S. Attorney's space, and additional space for the U.S. Attorney. Approximately $1,100,000 of the $1,683,000 request is based on additonal requirements since the original prospectus. $583,000 is attributed to inflationary increases in the work previously proposed.

QUESTION

Prior to fiscal year 1985, the threshold for OMB scrutiny of individual repairs and alterations projects had been a total prospectus amount of $10 million or more. With project design costs and construction management and inspection costs now tracked separately under the Design and Construction Services budget activity, the prospectus total includes only actual construction costs. Has OMB adjusted the cost threshold for project examination to reflect the fact that design and construction services costs are no longer included in prospectus totals?

ANSWER

GSA has not been notified of any plan to adjust OMB's $10 million cost threshold for repairs and alterations project examination. GSA's FY 1986 budget request for Repairs and Alterations includes three line item projects with an estimated construction cost that exceeds $10 million, as follows:

Washington, DC	(GAO Bldg)	$16,200,000
Washington, DC	(Steam Distribution System)	$13,796,000
Washington, DC	(Pension Building)	$16,700,000

Prospectuses for the first two projects were submitted to and approved by OMB as a part of the FY 1985 budget cycle, when design funding for these projects was authorized. The third project was authorized by Public Law 96-515, and does not require submission of a prospectus.

QUESTION:

Thirty-five repair and alteration projects scheduled for design in fiscal year 1986 have estimated construction costs totaling in excess of $400 million. Twelve of these projects, each with estimated construction costs in excess of $10 million, account for $300 million of the total. In other words, 34% of the projects will absorb 75% of the resources. What justifies the initiation of so many costly projects at the same time? Do these projects represent work of the highest priority within the repair and alteration program?

ANSWER:

The increased emphasis on a safe and healthful environment for federal employees and the general public as visitors to our facilities dictates that anincreased program and project size be accomplished. Asbestos abatement and high-rise fire protection features are programmed in addition to the regular program needs of basic repairs and space alterations. These major projects in excess of $10 million along with the others proposed for design in FY 1986 are our highest priorities. We are committed to accomplishing this work at the earliest time possible within the limit of available resources.

QUESTION:

One of the repair and alteration projects scheduled for design in fiscal year 1986 is to upgrade various building systems in the Pentagon. No mention is made in the project description of the need to deal with the asbestos found in the building. What impact will asbestos removal and encapsulation have on the total cost estimated for this project?

ANSWER:

The immediate asbestos problems in the Pentagon are being corrected this fiscal year. The full impact of the amount and condition of the asbestos materials and the associated costs are being developed. As stated, much of the work currently proposed for the next prospectus included building systems and the asbestos abatement requirements will alter the cost and scope of work. The new prospectus will include the added costs to correct the asbestos abatement measures required.

General
Services
Administration Washington, DC 20405

APR 5 1985

APR 8 1985

Honorable Robert T. Stafford
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, DC 20510

Dear Chairman Stafford:

I am pleased to have the opportunity to provide for the record answers to the attached questions requested by the Committee on Environment and Public Works.

GSA's internal organization was fundamentally changed in July 1979 by Administrator Rowland Freeman. This change placed the Agency's line management authority and accountability for day-to-day operations with GSA's Regional Administrators in the field. GSA's Program Heads were to retain the responsibility and authority for policy formulation, resource allocation and program evaluation.

This method of organization is similar to that adopted by the Department of Defense, Army, Navy and Air Force and also reflects the organizational principles used by many major corporations. A copy of the GSA Order announcing this decision is attached for your information.

In 1981, GSA Administrator Gerald P. Carmen ordered a review of this organization structure. Upon the recommendation of independent consultants and GSA's Advisory Board of 22 top corporate executives and business educators, Mr. Carmen reaffirmed and continued this method of organizing the Agency. It was Mr. Carmen's belief that continuing a decentralized approach to the Agency's organization would improve substantially the ability of the Administrator to more effectively manage, control, and improve the efficiency of the Agency.

The Office of Operations, which is the subject of the Committee's questions, was created in 1981 as part of these decisions to provide an administrative focal point that coordinates communications to the field and represents the operating viewpoint of the regional activities within the GSA Central Office.

It is my belief that this organizational change has fostered an improved level of communication and an organizational dynamics. This is an important factor which allowed GSA's management to identify and implement the changes that have contributed to the Agency's dramatic improvement in performance over the last few years.

I would be glad to take whatever time that may be required to more fully explain to your Committee how GSA's organizational structure functions.

Sincerely,

CHARLES S. DAVIS III
Associate Administrator
for Operations

Attachments

Questions and Responses

Question #1

What is the size and budget of the Office of Operations?

Answer

In FY-86, the Office of Operations is funded at $11.1 million and authorized 251 employees (FTE). Based upon this level of funds, and internal requirements, however, the Office of Operations is planning to operate at a level of only 221 FTE during this period.

The funding includes the funding for the 11 regional activities of:

--Regional Administrators
--Deputy Regional Administrators
--2 Secretaries and an Executive Assistant in each Regional Administrator's office
--Contract review and clearance functions
--Equal employment opportunity counseling and reporting functions
--Small and disadvantaged business outreach and counseling functions
--GSA's Business Service Centers
--A small staff of 2 to 4 people in each region to monitor key projects or issues for the Regional Administrator

In total, the regional activities located outside of GSA's Central Office account for 94% of the FY 1986 budget or 208 FTE and represent the Senior Management in the field responsible and accountable for managing GSA's field activities and over 21,000 employees. The remaining 13 FTE are located in GSA's Central Office and include the Associate Administrator for Operations and his staff that provide a coordination and liaison role for the Administrator and GSA's Service and Staff Offices to the field operations.

The Office of Operations was authorized a total FTE of 301 employees in 1984 but since has reduced FTE by 27% or 80 employees.

Question #2

Are press reports correct that the Office of Management and Budget (OMB) deleted funding for your office during budget negotiations with GSA?

Answer

No. For FY 1986, the budget examiner for OMB made suggestions that certain economies could be made in the General Management and Administrative account of GSA including a reduction of 23 FTE

[illegible]OSPECTUS [illegible]ATION AND STATUS	PROSPECTUS LIMITATION	YEAR APPROP	LINE ITEM APPROP. EOY FY 1984	OBLIGATIONS CUMULATIVE THRU 9/30/84	A/E DESIGN CONTRACT AWARD DATE	CO[illegible]UCTION C[illegible]TRACT AWARD DATE	CONSTRUCT COMPLETION DATE	PER CENT COMPLETE (CONST. ONLY)	PROJECT DESCRIPTION
Philadelphia,PA FB 5000 Wissa. Av. OMB - Not Required H - 5-84 S - Pending	3,100,000 LINE ITEM:	1985	2,635,000	0	AWARDED	MAR 1986	MAR 1987	0%	Install fire sprinklers, improve fire alarm system, and remove asbestos in the basement and sub-basement
Pittsburgh, PA PO-CT OMB - Not Required H - 5-84 S - Pending	9,728,900 LINE ITEM:	1983	753,000	20,885	MAR 1985	1/	-	-	Convert Postal space to office space, basic repairs to bldg. systems, install firesafety features, and aids for the handicapped
Scranton, PA PO-CT OMB - Not Required H - 5-84 S - Pending	4,358,500 LINE ITEM:	1986	3,863,000	0	JUN 1985	OCT 1986	NOV 1987	0%	Convert vacant Postal space for use as office space by installing building system and office finishes
Hato Rey, PR FB-CT OMB - Not Required H - 5-82 S - Pending	3,133,000 LINE ITEM:	1983	3,133,000	23,439	AWARDED	MAR 1986	MAR 1988	0%	Provide additional space for the U.S. Courts, install fire-safety improvements and a fire sprinkler system
Hato Rey, PR FB-CT OMB - Not Required H - 5-84 S - Pending	1,683,000 LINE ITEM:	1986	1,683,000	0	DEC 1984	APR 1986	MAR 1988	0%	Alterations in support of the U.S. Courts
Greenville, SC CT OMB - Not Required H - 8-80 S -9-79	1,750,000 LINE ITEM:	1982	1,500,000	1,018,670	AWARDED	AWARDED	APR 1985	99%	Convert vacant space for use by the U.S. Courts, upgrade existing space, install firesafety improvements
Nashville, TN Union Station OMB - Not Required H - 6-78 S - 5-78	7,152,000 LINE ITEM: TOTAL	1982 1984	275,000 1,500,000 1,775,000	274,321 1,500,000 1,774,321	AWARDED -	AWARDED -	COMPLETE -	100% -	FY 1982 project has been completed, the FY 1984 project transfers $1,500,000 to the city of Nashville

1/ Design only project

PROSPECTUS LOCATION AND STATUS	PROSPECTUS LIMITATION	YEAR APPROP	LINE ITEM APPROP. EOY FY 1984	OBLIGATIONS CUMULATIVE THRU 9/30/84	UNOBLIG. BALANCE 9/30/84	FY 1985 LINE ITEM APPROP.	FY 1985 PLANNED OBLIGATIONS	FY 1985 PLANNED UNOBLIG. BALANCE EOY	FY 1986 LINE ITEM APPROP.	FY 1986 PLANNED OBLIGATIONS	FUTURE YEARS OBLIGATIONS
Philadelphia,PA FB 5000 Wissa. Av. OMB - Not Required H - 5-84 S - Pending	3,100,000 LINE ITEM:	1985			0	2,635,000	815,000	1,820,000		1,820,000	0
Pittsburgh, PA PO-CT OMB - Not Required H - 5-84 S - Pending	9,728,900 LINE ITEM:	1983	753,000	20,885	732,115			732,115		732,115	0
		~~1986~~			~~0~~			~~0~~	~~8,672,000~~	~~8,065,000~~	~~607,000~~
	~~TOTAL~~		~~753,000~~	~~20,885~~	~~732,115~~	~~0~~	~~0~~	~~732,115~~	~~8,672,000~~	~~8,797,115~~	~~607,000~~
Scranton, PA PO-CT OMB - Not Required H - 5-84 S - Pending	4,358,500 LINE ITEM:	1986			0			0	3,863,000	3,592,600	270,400
Hato Rey, PR FB-CT OMB - Not Required H - 5-82 S - Pending	3,133,000 LINE ITEM:	1983	3,133,000	23,439	3,109,561			3,109,561		3,109,561	0
Hato Rey, PR FB-CT OMB - Not Required H - 5-84 S - Pending	1,683,000 LINE ITEM:	1986			0			0	1,683,000	1,598,000	85,000
Charleston, SC PO-CT OMB - Not Required H -12-81 S -12-81	1,201,000 LINE ITEM:	1982	1,001,000	929,078	71,922		10,000	61,922		61,922	0

in the Office of Operations, which would represent an 8.6% reduction in the activity from the requested level. As discussed above, however, GSA is planning to exceed these recommendations.

Question #3

Will the Office of Operations be able to continue to operate in the coming fiscal year?

Answer

Yes.

Question #4

In your statement you indicate that the function of your office is to implement policy decisions made by Program Heads. Does this division of labor subvert the authority and blur the responsibility of the Program Heads to see that their policies are carried out?

Answer

No. The Administrator of GSA holds each Program Head responsible for defining his respective program policy, plans and procedures, establishing resource levels, setting the objectives to be obtained and evaluating program performance.

Conversely, the Administrator holds the Associate Administrator for Operations responsible for implementing the policies and procedures and reaching the objectives established by each of GSA's 12 different Program Heads. Many of these policies that are established by separate Program Heads interrelate in almost all of GSA's operations. Therefore, in effect, no single Program Head in GSA could have complete authority over a major GSA operating activity.

In effect, therefore, the Program Head states what should be done and oversees that it is done as he dictated. The Program Head in this role is the appropriate person for the Administrator or Congressional oversight committees to rely on to discuss policy matters and report on the effectiveness of GSA's operations in implementing these policies. In fact, he is likely to be more critical and less defensive about any operating problems and shortcomings because he is not engaging in a self-confession of his failure but rather overseeing the implementation by others of his policies and programs.

This role for the Program Head, therefore, is exactly the same for an activity that is performed by GSA operations as it would be for an activity that is performed by another agency acting under a GSA delegation where GSA sets the policy. It is wholly consistent with the initiatives recommended by the Cabinet

Council on Management and Administration and approved by the President on March 7, 1985. In implementing this initiative, this role for the Commissioner of PBS allows him to make decisions on whether or not to delegate activities totally objectively.

Question #5

Has the Office of Operations ever held up directives that Program Heads wished to issue to regional offices?

Answer

No. The Office of Operations has no authority to delay the issuance of any policy directive by a Program Head of GSA.

GENERAL SERVICES ADMINISTRATION
WASHINGTON, D. C. 20405

ADM 1000.3
July 2, 1979

GSA ORDER

SUBJECT: Statement of Management Policy

1. Purpose. This directive sets forth the basic management policy by which GSA will be administered.

2. Cancellation. Any directives, memoranda, letters, or other instructions, written or verbal, that are in conflict with this directive are hereby canceled.

3. General Policy.

   a. Pursuant to Congressional mandate and Presidential direction, the GSA provides a wide variety of management and related services for the Federal Government. The basic policy of the GSA is to provide high quality service in a timely and cost effective manner. The services encompass the functions associated with the Public Buildings Service, Federal Supply Service, Automated Data and Telecommunications Service, Federal Property Resources Service, National Archives and Records Service, and the Transportation and Public Utilities Service.

   b. The GSA also exercises certain standard-setting, regulatory, and compliance monitoring responsibilities related to its assigned programs. The objective of these activities is to further the basic policy of providing high quality service in a timely and cost effective manner within the scope of applicable statutes and regulations.

4. Management Principles - Roles and Responsibilities.

   In carrying out the general policy in paragraph 3, the following management principles will apply:

   a. Total operating responsibility for agency programs will be assigned to the Regional Administrators within policies prescribed by the Administrator.

   b. Authority to accomplish agency programs, including resource management, will be delegated to the Regional Administrators directly by the Administrator. The Regional Administrators' accountability for agency programs will include the requirements of 31 U.S.C. 628 - "Application of moneys appropriated" and 31 U.S.C. 665 - "Appropriations".

Distribution: A; B; F; G; H; plus SPC B148

c. The Service Commissioners, serving in a staff relationship to the Administrator, will develop national program guidance and monitor regional activities in their respective functional areas of responsibility.

d. The Assistant Administrator for Management, Policy & Budget, reporting directly to the Administrator, will provide strong financial management at the Central Office. An integrated and consolidated budget will be developed based upon submissions to the Services by the Regional Administrators. One- through five-year program plans will be developed annually by each Service under the general supervision of the Assistant Administrator for Management, Policy & Budget.

e. There will be effective agency-wide performance measurement against Congressionally-approved programs. Management audits of all functions at the regional level will be conducted by the Service Commissioners, Assistant Administrators, and the Inspector General. Administrative oversight will be performed in the regions by the Assistant Administrator for Field Services. Oversight review of all acquisition programs and procedures will be conducted in each of the Services by the Assistant Administrator for Acquisition Policy.

5. Implementing Actions. The following implementing actions are directed:

a. Each Regional Administrator will submit to the Administrator within 30 working days of the date of this directive a regional directive implementing the provisions of this directive, including procedures for compliance.

b. The Assistant Administrator for Management, Policy & Budget has issued to the Regional Administrators guidance necessary for submission of the fiscal year 1981 budget and the requirements for the FY 1980 operating budget. These guidelines will be followed and submissions transmitted within the due dates.

c. The Assistant Administrator for Management, Policy & Budget will prepare the zero-based budget for FY 1981, with the advice and input of the Service Commissioners, supplemented by budgetary annexes prepared on a service basis, regional basis, and direct vs. overhead cost basis. Revised instructions will be issued within 10 working days, identifying the additional financial and workload data to be submitted for the budget, including travel ceilings, estimated personnel ceilings, requirements guidance, and other essential information.

d. The Assistant Administrator for Human Resources and Organization will provide a training plan to the Administrator within 10 working days of the date of this directive that is designed to achieve the level of proficiency at the Central Office and in the Regions necessary to implement this directive.

e. The Service Commissioners, Assistant Administrators, and the Inspector General will submit draft plans to the Administrator within 30 working days of the date of this directive for the management audits and oversight activities prescribed in paragraph 4e. These plans will project activities for a period of 5 years.

R. G. FREEMAN III
Administrator

APPALACHIAN REGIONAL COMMISSION
1666 Connecticut Avenue, N.W
Washington, D.C. 20235

March 7, 1985

Senator Robert T. Stafford
Chairman
Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Senator Stafford:

This letter is in response to your request for a report on the President's FY 1986 budget submission.

Enclosed is my testimony on the FY 1986 budget as submitted before the House Commmittee on Appropriations, Subcommittee on Energy and Water. Also enclosed are my responses to the questions addressed in your letter.

I will be glad to be of further assistance to the Committee on this important matter.

Sincerely,

WINIFRED A. PIZZANO
Federal Co-Chairman

Enclosures

Prepared Statement of
The Honorable Winifred A. Pizzano
Federal Co-Chairman
Appalachian Regional Commission
Before House Committee on Appropriations
Subcommittee on Energy and Water
March 6, 1985

Mr. Chairman, distinguished Members, thank you for the opportunity to appear before your committee.

As you are aware, I appear before you in support of a different proposal for the Commission than that of the Appalachian Governors, which will be presented by my distinguished fellow Co-Chairman, Governor Harris of Georgia.

The Administration is proposing termination of the Commission -- both its highway and nonhighway programs -- at the end of 1985. Accordingly, no funds for 1986 have been included in the President's budget. The Administration also proposes to rescind $99 million of the $149 million program appropriation in 1985, including $56 million from highways, $39 million from area development programs and $4 million from the LDD and technical assistance program.

The general effect of the rescission would be a cessation of project approvals and funding as of January 1985. The remaining funds for fiscal year 1985 are being utilized to obligate those projects and activities for which Commission commitments had been made before January.

If the President's recommendation to terminate ARC at the close of FY '85 is accepted, $10 million in deferred funds would be available to the Department of Commerce through 1988 to administer the close out of projects and programs.

I support these budget proposals; they are a part of the Administration's wide-ranging efforts to reduce a federal deficit that could otherwise undercut our vigorous national economic growth. Continuation of that growth can do more to strengthen the economy of Appalachia than any level of federal funds proposed for the Commission.

I will proceed with my prepared statement in the following fashion: I will review briefly the progress made to date on the Finish-up program previously submitted to Congress; I will highlight some of the economic changes now underway in the region; I will outline what I believe to be the most appropriate responses to some of those changes; and I will conclude by discussing a new regionwide initiative about which I'm especially enthusiastic.

Governor Harris may report in greater detail on the Finish-up program activities and submit for the record a more detailed staff report of those activities. I wish only to highlight several points.

Health

- The Governors told you we would Finish-up the ARC health program in three years. We are accomplishing our major goals: we are providing access to basic health care within 30 minutes for most people in the region; we are assisting the region's medically underserved communities with physician recruitment. We are providing assistance to counties with relatively high infant mortality rates.

  As you know, the Commission has been actively involved in providing resources to reduce infant mortality in the region. Traditionally, the approach has focused on developing health centers in which prenatal care can be provided at the local level. Infant mortality, although the actual numbers may be small, seems to be a volatile problem and has root causes not necessarily addressed by our nation's traditional infant mortality programs. Therefore, in addition to the conventional approach, we are funding a new approach to the problem which is currently being implemented in five demonstration sites.

  The purpose of this program is to test two concepts. The first is to demonstrate that a concerted community effort can improve the health of newborn Appalachians by encouraging early and continuous prenatal care as well as good nutrition and social service support to mothers. The second is to test the concept that volunteers, especially older volunteers, working with a variety of program sponsors can provide various support services to improve access for women to health and social services.

  The Commission has prepared program materials to assist our sites in implementation. In addition, each site has been awarded a one-time grant to offset the cost of developing the program, and arrangements have been made for each site to receive technical assistance during the year-long demonstration.

We firmly believe that this low-cost, high-yield program will prove very effective in reducing infant mortality. It appears that others share our optimism; we have received more than 300 requests for information already, including inquiries from Hawaii and Canada.

Distressed Counties

- Under the area development program, we have directed a significant share of ARC area development resources to the most severely distressed counties in the region. As you know, Mr. Chairman, these counties qualified for relatively few ARC dollars over the years because those dollars were directed by law to areas with the greatest growth opportunities, and the distressed counties had few such opportunities.

  Under the Finish-up program, we have targeted those areas. The poorest 20 percent of our counties received $21.7 million in ARC Distressed Counties assistance for 107 projects in fiscal year 1983 and 1984. Another $10.1 million in other ARC funds was provided for 82 additional projects in those counties during the same period. We are continuing this year our special effort in behalf of these neediest counties in Appalachia.

Jobs and Private Investment

- Third, I want to report that the sharper focus of our other area development funds under our Jobs and Private Investment program has resulted in more effective use of ARC dollars.

  During 1983-84, the 283 projects that ARC funded with a total of about $70 million attracted almost $800 million in local investments and when completed, created approximately 22,000 jobs.

Highways

- And finally, with regard to our Highway program, in 1984, we obligated a total of $108,495,000 highway dollars. We completed 85 corridor miles of highway, placed under contract another 40 miles, acquired right-of-way for an additional 29 miles, funded the engineering design for still another 25 corridor miles, and placed 36 miles of access roads under contract.

Although I fully support the Administration's proposal to terminate funding for the ARC, I wish to assure the committee that, in the event that Congress again appropriates funds for the Commission, I will continue to fulfill my obligations to insure those funds are expended as prudently and effectively as possible.

In so doing I would continue to give priority to programs designed to help Appalachian communities respond to, and take advantage of, important changes in the economy of the region, the nation, and the world.

Twenty years ago, when the ARC was getting underway, the most common strategy for job creation at the local level was known as "smokestack chasing." By that I mean the all-out efforts that were launched to lure manufacturing plants or other industrial operations from one state or locality to another -- more often than not, a zero sum game.

However, the principal sources of new jobs in our economy have changed dramatically since then.

Some four out of five new jobs created in recent years have been created in the service industries. Indeed, that shift was so massive in the 70's that by the end of the decade more than half of all working Americans were employed in private sector service industries.

Moreover, between 1977 and 1980 -- and I have no reason to believe this trend has changed -- the great majority of all new manufacturing jobs were related in one way or another to international trade.

Finally, it has become increasingly clear in recent years that more new jobs are being created by small business in this country than by all other sources combined.

The profile, then, of new jobs for the future appears to be heavily weighted toward small business, a diverse group of service industries, and exports. Accordingly, during my 2½ years as Federal Co-Chairman, I have given considerable attention to programs designed to help create jobs in those areas.

However, just as the overall job creation picture has changed during the last two decades, so too the economy of Appalachia has been -- and continues to be -- undergoing a major transformation. Appalachia's future development depends upon the recognition of these changes.

The region is still less urban than the nation as a whole, in spite of an increase in the urbanization of some counties in recent years with a corresponding growth in employment.

Appalachia remains a region disproportionately dominated by manufacturing and coal mining activities. The major manufacturing industries that predominated in 1965 are still among the dominant ones today, although several new industries have joined the list, and are growing in importance.

As you can see from Exhibit 1, more than 2 million new jobs were been created in Appalachia during the past twenty years. However, the unemployment gains and losses which occurred during and after the recent recession seem to indicate that parts of the region's economy are responding to technological changes as well as national and international market forces. These areas and their principal industries are not adjusting well to changes in the business cycle, and have not responded fully to the more traditional approaches to economic development.

In the late seventies the region's unemployment rate began to exceed that for the nation as a whole, a pattern that is illustrated by Exhibit 2.

For the most part, those job losses were not spread evenly across the region's industries. Nor were they spread evenly across the region itself. Exhibit 3 shows areas which suffered the most severe job losses during the first years of this decade. As you can see, among the hardest hit parts of the region were the coal fields in the heart of Appalachia and the industrial areas dominated by heavy manufacturing and metals.

In contrast, Exhibit 4 adds to the picture those counties with employment gains either above or below the national average, as well as counties with no significant change in employment during the same period.

Perhaps the reasons why some parts of the region are doing comparatively better than others will become clearer by touching briefly on some of Appalachia's major industries.

When coal was booming -- during the oil squeeze in the mid-seventies -- people were moving to central Appalachia in record numbers. When the coal market slumped, so did employment in the mines. Many, if not most of those unemployed coal miners will not regain their jobs in the mines. Even if foreign or domestic demand for Appalachian coal swings upward again, it is commonly agreed that new technology and modernization will enable coal operators to meet that increased demand with few additional miners.

Another major Appalachian industry, primary metals, is located in two geographical clusters. As you can see on Exhibit 5, the northern cluster includes middle and eastern Pennsylvania, Ohio, and a section of West Virginia along the Ohio River. The second cluster follows the Tennessee River in Tennessee and Northern Alabama. The northern tier accounts for far and away the largest share of Appalachian production, some 70 percent.

The plight of the primary metals industry is well known. Appalachia's fabricated metals industry as seen in Exhibit 6, has also seen its growth severely cut, or even eliminated, in recent years.

Change in both industries is a worldwide phenomenon which has yet to fully run its course. A chief cause of the distress felt by northern producers is the stiff challenge being mounted by overseas competitors armed with both technological and labor-cost advantages.

No less damaging, however, has been a steady decline in worldwide demand for steel and related products -- at the same time productive capacity has been increasing in many foreign countries.

Exacerbating the unemployment problems of northern Appalachia is another metal-related industry, machinery manufacturing.

As you can see from Exhibit 7, 70% of this industry is located in northern Appalachia, with a smaller concentration in South Carolina, and other plants scattered throughout the region. The machinery industry is an old Appalachian industry, with many workers in the northern part of the region specialized in this highly skilled work.

The northern segment of the industry, in particular, lost large numbers of jobs in the first part of this decade. In the South, on the other hand, newer, more automated plants have helped position machinery manufacturing as a steadily growing industry in that area.

Also doing better in the South is Appalachia's chemical industry, seen in Exhibit 8. Jobs are being lost in West Virginia and Ohio, where the industry is older, petroleum based and declining.

In the region's two more southern concentrations, however, the picture is much brighter.

In North and South Carolina, for instance, the chemical industry is highly specialized in textile and fiber-related chemicals, and should share in much of the growth expected in certain segments of that industry.

The region's greatest number of chemical industry jobs, however, is in East Tennessee, where employers benefit from abundant and affordable electric power as well as a highly competitive local wage structure.

Some of the healthiest, fastest growing, and most eagerly-sought manufacturing firms in America are the makers of instruments, transportation equipment, and electrical and electronic devices. These are high value-added producers, whose workers tend to be well-educated, highly trained, or both.

In Appalachia, as you can see from Exhibit 9 major manufacturers of transportation equipment are concentrated in just a few of the region's cities. The manufacturers of instruments, and electrical and electronic devices, on the other hand, are more widely dispersed, as you can see in Exhibits 10 & 11.

While these firms employ a relatively small share of Appalachia's aggregate workforce, they are proving to be potent catalysts for diversified growth, and as such, indirect creators of additional new jobs in the communities in which they operate. Banks, engineering and technical firms, and a variety of other service industries tend to spring up wherever the so-called "good manufacturing" firms choose to locate.

The more diversified an area's economy, the greater its ability to weather periodic downturns in particular industries.

It's precisely that lack of diversification -- in favor of an overwhelming reliance on coal production -- that has caused such economic difficulty in the middle or central portion of the Appalachian region.

Diversity in a local economy can be achieved in several ways. It is achieved when existing businesses take the steps necessary to sell their products in new markets, at home or overseas. It is achieved when new firms --perhaps very different firms -- open for business in a new county. And, it can be argued, I believe, that diversity in an area's economy is increased as its worker's educational attainment goes up -- because the more educated the workforce, the more transferable are its skills.

But diversity in an area's economy -- of whatever type -- is not a achieved by accident.

Consider, for example the potential that exists in almost any community to reap the benefits that result when new businesses are started and thus create new jobs.

Almost every community has that potential. Not every community successfully creates jobs.

In order to fully realize that potential, an environment must be created in which small businesses can not only get started, but can expand and flourish.

Over the past 3 years the Commonwealth of Pennsylvania, for instance, has done much to help create such an environment by working closely with the federal and local governments and the private sector on a number of small business-related programs:

- Governor Dick Thornburgh's Enterprise Development Program has proven to be a very successful means of providing many different forms of assistance to small businesses and is being replicated in other areas of the region. Operated by the state's Local Development Districts, the Enterprise Development Program uses a "one stop shopping" approach to offer management advice, loan packaging, financial projections and accounting models to small entrepreneurs to whom such services might otherwise be unavailable.

- Small business incubators are another of Pennsylvania's innovative job-creation programs which we have been pleased to support. In a steadily growing number of communities, vacant industrial buildings -- and in one case, an empty school -- are being used to house a variety of small firms that share not only the same roof, but parking, utilities, loading facilities, insurance, and in some cases, even secretarial, photocopying and phone services.

- In order to help firms turn the potential of high tech into the reality of new jobs, Pennsylvania created the Ben Franklin Partnership program. This program makes available financial and research assistance to firms and persons with innovative ideas and processes that require further development to be commercially viable. There is a similar technology transfer program at Mississippi State and another in Oak Ridge, Tennessee.

- In these times of high deficits and tight budgets, few programs make more sense when assisting small business than revolving loan funds; and few states have used revolving loan funds more effectively than Pennsylvania. Access to capital is a continuing problem for small firms everywhere, and in Pennsylvania, they are matching, leveraging, and in other ways stretching scarce loan dollars to reach as many small businesses as possible.

There are several other innovative and successful programs in place in the region, but I won't take the Committee's time at this point to decribe them in detail.

In my view, it is more important to point out the objective which underlies all these programs: to get federal, state, and local governments working together to create an environment that encourages -- rather than discourages -- the growth of a large number of small, diversified businesses in order to create new jobs.

In the southern part of the region, too, we have put increased emphasis on creating jobs by supporting programs geared to the future. In many cases, that has meant helping firms and industries with long-established domestic markets begin to take advantage of overseas demand for their products.

The wood products industry is an excellent example.

You and I, Mr. Chairman, have discussed on several occasions the tremendous potential for increasing wood exports from your part of Appalachia -- particularly now that the Tennessee-Tombigbee Waterway has opened for business.

While the Tenn-Tom was being completed, timber supply and other factors have been shifting much of the wood products industry from the Northeast to the Southeast.

As you know, ARC undertook a special study of present and anticipated timber supply in 159 Appalachian counties in the five states most directly affected by the Tenn-Tom. We found an ample present supply and annual growth exceeding the cut, assuring ample future supplies even if exports are significantly increased.

We found an ample sawmill capacity, although most mills were relatively small.

We found that most of the owners of timber had relatively small lots.

In light of these findings, we asked the experts what ARC could do to help increase income for Appalachians by facilitating export sales with the help of the new Tenn-Tom Waterway.

At our conference last October in Tupelo, Mississippi, hundreds of industry leaders joined with state, local and federal officials to discuss answers to that question. The answers primarily dealt with some aspect of one broad conclusion: what we might best do is spur cooperation among wood producers, sawmills, bankers, brokers and shippers to increase exports.

The wood products export base on which we hope to build is shown by the two charts we have distributed to you. Exhibit 12 shows the dollar value of softwood lumber exported from the United States and from the Southeast in the 1979-83 period; Exhibit 13 shows the same for hardwood exports.

We are pleased to report that specific actions have been taken since our Tupelo wood conference to implement some of the ideas shared there. Among these is the establishment of the Wood Products Marketing Co-op to be headquartered at Pickensville, Alabama, on the Tenn-Tom. As you know, I had the pleasure of returning to Mississippi last Friday to sign papers getting the co-op underway.

Supported by ARC assistance in its first year, as well as by the Tennessee Valley Authority, and its own private resources, the Co-op will help its members -- 16 small and medium-sized lumber companies -- strengthen their operations, particularly the development of foreign markets for their timber products. Export contracts tend to be too large for any one of these smaller producers to fill. By banding together, however, all might now get part of a large order that in the past would have been filled by some other nation.

Additional export potential exists throughout the region for more than just wood products, of course. One of the many steps we have taken to boost coal exports, for instance, was the production -- in conjunction with the International Trade Administration -- of a comprehensive series of coal export guides which have been well received throughout the industry.

In South Carolina, to cite just one more example, we are supporting an effort to help obtain export financing for small businesses engaged in the production of high tech products.

I believe that when the changes in the region's industry now coming into focus become clear to all, the winners will be those communities that:

- encourage the development of small business;
- see diversification -- particularly into service industries -- as a key objective;
- leave no stone unturned in their effort to sell their products on world markets; and
- finally, devote an even greater share of their energies and resources to education and training at the local level.

That last imperative -- to do more in the area of education and training -- is the final issue I'll cover in my statement this morning, Mr. Chairman.

I've saved it for last by design -- which I am sure comes as no surprise to you, given the several times we have discussed our mutual desire to see improved educational opportunities for all the children of Appalachia.

In our region, as anywhere else in America, nothing is more important to a child's future opportunities than education. Cut short a child's education, and you may be short-circuiting his future.

In Appalachia, we have made great progress already in reducing dropouts. In twenty years, we have nearly doubled the percentage of students who complete four years of high school -- to the point where more than half of our students now graduate. This effort was aided in large measure by ARC's longstanding support for vocational and technical schools -- some 700 of them -- throughout the region.

Of continuing concern, however, is the gap that remains between the dropout rate in the country as a whole and the dropout rate in Appalachia.

Exhibit 14 shows the progress Appalachia has made in attaining national levels of high school completion. Exhibit 15 shows, however, how uneven the high school retention rates are in different parts of the region. The counties in green have dropout rates at least 150 percent of the national average and those in red have rates at least twice the national average. This remains true despite our past and continuing efforts to reduce dropouts, particularly through the strong ARC vocational education program.

To try to close that gap, I am pleased to report that the Governors and I have agreed to sponsor as ARC's 20th anniversary project, an ambitious, $1.5 million effort to get local school districts, private companies, and community service organizations working together on effective ways to encourage students to stay in school.

The grant program will be administered by the Appalachian Foundation. The Foundation, which is up and running and chaired by former Governor Linwood Holton, has focused during its first year, on education issues in the region. By taking advantage of the Foundation's capacity to leverage private-sector funds, we can increase the reach of our dropout prevention efforts.

The dropout program will focus on trying new approaches to the dropout problem on a local level that -- if successful -- can be introduced in other communities throughout the region.

It's funds will be -- in every case -- leveraged against matching funds from the private sector. In an economy which increasingly values an educated workforce, private employers have as great a stake as anyone else in Appalachia in reducing our student's dropout rate.

No other project, in my judgement, could be more appropriate as a 20th anniversary tribute to the ARC's founders. For, when you go back and read the comments made by those who created the Commission in 1965, time and again you find them speaking of Appalachia's children -- and of their hopes for those children's future.

Mr. Chairman and members of the committee, let me conclude by saying that I am sure all of us in this room here this morning share those same hopes for the children of Appalachia.

And I think we would all agree that the future looks far brighter for them today than it did for their parents two decades ago. Any number of social indicators make that case -- without question.

During the past twenty years, we confronted the challenges of the sixties, and in large measure they were met.

To confront the challenges of the eighties -- new and different challenges, in a new and different economic and political climate -- that's the task Appalachia faces today.

The problems in Appalachia also face the nation. Problems and opportunities associated with the international market place, with emerging technologies, and with workforce skills will be addressed in national monetary policy, tax law changes, and a decrease in the nation's deficit.

At the national level, tough political decisions have spurred widespread economic recovery -- and the benefits to every region of the country are apparent to us all.

That concludes my prepared statement, Mr. Chairman. I appreciate the opportunity to testify once again before this distinguished subcommittee. I would, of course, be pleased to respond to any questions, either now or at the conclusion of Governor Harris' remarks.

Q1. Please discuss in detail the budget request for fiscal year 1986. How do these figures compare to the amounts actually appropriated in fiscal year 1985, and the amounts appropriated in fiscal year 1984?

A. The Administration has recommended, once again, the termination of ARC and, therefore, has requested no funds for ARC for FY 1986. There is, however, a $10 million deferral request from FY 1985 funds to be transferred to the Department of Commerce for close out of existing programs.

The amount appropriated in FY 1985 was $149 million for programs and $2.3 million for administration costs. The appropriation for FY 1984, including two supplemental appropriations, was $159.4 for programs and $2.7 million for administration costs.

Q2. Please discuss the rationale for the increases or decreases in the level of funding for fiscal year 1986. In areas where programs are increased, indicate whether these budgetary increases are tied to new agency initiatives or an increase in ongoing programs.. Specify what the additional funds will provide. In the programs where reductions have been made, what specific areas of the program will be reduced or eliminated and what will be the effect of these reductions on operation of the program? If there is no change in funding from last year, what changes are made in program priorities?

A. The justification for the recommendation to terminate ARC at the close of FY 1985 continues to be that the goals set to be accomplished by the programs of the ARC have, for the most part, been accomplished. There is little reason to believe that the remaining problems of Appalachia are so unique that they require a special Federal level consideration.

The Administration has, for the last four years, proposed no funding for ARC but, until FY 1986, has proposed funding for the Appalachian Development Highways System to be appropriated to DOT. The Administrations FY 1986 budget proposal requests no funding for the Appalachian Highways. The rationale for this is that in 1982 OMB proposed a total cf $320 million to be funded for these highways from DOT over the years of 1983-1986. During the period of 1983-1985, $326.5 million has been apppropriated for the highway program. Thus, the administration feels that enough funds have been appropriated to fund the elements of the program for which OMB had requested.

While the Administrations proposes no funds for ARC beyond the current fiscal year , it should be noted that the Governors of Appalachia have requested to Congress $311 million for ARC in FY 1986.

Q3. What personnel increases or decreases are being proposed? How will this affect the agency's ability—including any additional time it will take—to carry out its program responsibilities?

A. Since it is the Administrations' plan to terminate ARC at the close of FY 1985, no funds for salary and expenses have been requested for FY 1986. Therefore, present staff of ARC would be terminated with the closedown of the agency. The amount of staff so effected would be six in the Federal Office and sixty-two in the Commission.

The $10 million deferral is to be used by the Department of Commerce to close-out existing programs through the efforts of a small staff over an estimated three year period.

Q4. Please discuss any rescissions, deferrals or supplementals requested for FY 1985.

A. There is a $10 million deferral requested for FY 1985 funds to be transferred to the Department of Commerce for close out activity.

There is also a proposed rescission of $99 million for FY 1985 that was transmitted to Congress on February 6. This $ 99 million includes $56 million from highways, $39 million from area development and $ 4 million from Local Development Districts. No funds other than those currently committed will be committed by ARC until Congressional action on the recession request has been taken.

Q5. Please indicate if any legislative initiatives are necessary, or are being considered, to implement any part of the agency's fiscal 1986 budget request. If so, please describe these proposals and specify the budgetary impact of each provision.

A. No legislative initiatives are necessary to implement the FY 1986 budget request. Section 405 of the Appalachian Development ACT, as ammended (40 App. U.S.C. 405), provides that the Act, other than section 201 (highways), shall cease to be in effect on October 1, 1982. Since that time, Congress has kept the program alive through a series of continuing resolutions and appropriations. Absent further similar action by Congress, it appears the legisltation (except for section 201, which authorizes the highway program) would terminate by virtue of this "sunset provision" without the necessity for any further specific terminating legislation.

Q6. Please detail, for reductions taken in accordance with section 2901 of the Omnibus Deficit Reduction Act, and section 515 of P.L. 98-473, The Continuing Resolution, the class where savings will be acheived. Provide detail on the funding levels of those spending categories in FY 1984, FY 1985, and FY 1986. Also, provide object class information detailing where the FY 1986 10% cut in Administration would be achieved and what the funding levels were for those object classes for FY 84 and FY 85.

A. The ARC is not included in the Omnibus Deficit Reduction Act, or The Continuing Resolution. ARC is part of the Energy and Water Development Appropriation Bill signed into law on July 16, 1984, (P.L. 98-360).

Q8. Please provide information and comment on "The Governor's Finish-Up Program".

A. In 1981, the 13 Governor's of Appalachia responded to a Congressional request for recommendations as to how the highway program might be completed and the area development program phased out over three to five years. This proposal narrowed the focus of the ARC program and fixed completion dates.

The finish-up plan was adopted by the Commission to begin in FY 1983, and has been in place with less than requested funding since that time. There are now requirements in the program for increased private sector involvement that would help local development initiatives become more self-reliant.

However, the finish-up plan requests continued funding to accomplish the efforts of ARC, when in fact the Commission was established twenty years ago as a temporary program. Economic indicators comparing Appalachian to the United States show that the region is no longer lagging behind the rest of the Nation and, therefore, does not merit special funding. Attached are recent economic indicators illustrating this point. Moreover, the programs in the governor's plan which one not yet fully completed are or can be provided for in the programs of other permanent agencies such as HUD, HHS, and FMHA.

- Out migration, an indicator of the public's valuation of economic opportunity at the regional level, has been reversed. In the 1960's 1.1 million people moved out of the region. In the 1970's 1.1 million migrated into Appalachia.

- Between 1965 and 1980, while the population in the Region increased 2.2 million, the number of people employed also increased by 2.2 million.

- Per capita total personal income for the region relative to the U.S. has increased so that it is now 82 percent of the national average in 1980 compared to 78 percent in 1965.

- Poverty levels have been cut more than in half from 33 percent in 1965 to 14 percent in 1960, compared to 12.4 percent in the nation.

- Reliance on transfer payments decreased. In 1965 per capita outlays for major Federal welfare programs in the Region were 5 percent above the national average. By 1980, they were at the national level.

- Literacy has improved, as measured by secondary education completion rates which have nearly doubled in 20 years. By 1980 57.4 percent of the population had completed four or more years of high school, up from 33 percent in 1960. The national percentage of population completing high school is 66.4 percent.

- Before ARC, less than 2 percent of Appalachian school districts had kindergarten programs, with only five states providing direct aid for kindergarten programs. By 1980, 98 percent of the districts had kindergarten, programs, and this year Governor Winter has initiated a statewide program in Mississippi which will cover the remaing districts.

- Vocational education enrollment more than doubled from 1965 to 1980 when 52 percent of 11th and 12th graders were in voc-ed courses, thus exceeding the 50 percent goal set by the Commission in its first year.

- Infant mortality per one thousand live births was cut from 25.7 in 1963 to 12.7 in 1980. While still slightly above the 12.5 national level, the improvement has exceeded national progress.

- While Appalachia falls short of the national average of 18 private physicians iper 10,000 population, it has increased from 9 to about 12 per 10,000 by 1978a. Moreover, part of the deficit is being met by placements of National Health Service Corps physicians.

- Census data show significant improvement in housing conditions in the Region, although the census has changed its definition of housing quality. In 1980, 26.6 percent of Appalachian housing units were dilapidated and deteriorating compared to 18.8 percent of the nation's housing units. In 1980, using the lack of plumbing as the measure of housing quality, 4.1 percent of the Region's housing lacked plumbing, a rate 40 percent higher than the national level at 2.9 percent.

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

Sec. 130. (a) There are hereby transferred to and vested in the Secretary of Transportation all functions..powers, and duties of the Appalachian Regional Commission that relate to the Appalachian Development Highway System provided for in section.201 of the Appalachian Regional Development Act of 1965, as amended.

(b) So much of the personnel, assets, liabilities, contracts, properties, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available in connection with the functions, powers, and duties transferred by subsection (a) of this section as the Director of the Office of Management and Budget shall determine shall be transferred to the Secretary of Transportation.

(c) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges which have been issued, made, granted, or allowed to become effective in the excercise of duties, powers, or functions which are transferred under this section which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary of Transportation or by operation of law.

(d) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before the Appalachian Regional Commission; but such proceeding, to the extent that they relate to functions so transferred, shall be continued before the Department of Transportation. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued where they were pending at the time of such transfer. In either cases, orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary of Transportation, or by operation of law.

(e)(1) Except as provided in paragraph (2), the provisions of this section shall not affect suits commenced prior to the date this section takes effect, and in all such suits proceedings shall be had, appeals taken, and judgements rendered, in the same manner and effect as if this section had not been enacted.

(2) No suit, action, or other proceeding commenced by or against an officer of the Appalachian Regional Commission in that officer's official capacity shall abate by reason of the enactment of this section. No cause of action by or against any department or agency, functions of which are transferred by this section or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official of the Department of Transportation as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(3) If before the date on which this section take effect, the Appalachian Regional Commission, or officer thereof in official capacity, is a party to a suit, then such suit shall be continued by the Secretary of Transportation (except in the case of a suit not involving functions transferred to the Secretary).

(f) With respect to any function, power, or duty transferred by this section and excercised after the effective date of this section, reference in any other Federal law to the Appalachian Regional Commission shall be deemed to mean the Secretary of Transportation.

(g) Subsection (g) of section 201 of the Appalachian Regional Development Act of 1965, as amended, is amended by striking out "and $165,000,000 for the fiscal year 1982." and by inserting in lieu thereof "and ____________________ for the fiscal year ending ________________________________, etc.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

February 29, 1985

Honorable Robert T. Stafford
Chairman
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Honorable Lloyd Bentsen
Ranking Minority Member
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Senators Stafford and Bentsen:

Thank you for providing me with the opportunity to submit my testimony to you regarding our FY 1986 appropriation request. I have already provided our budget request to the Senate Subcommittee on Appropriations for HUD and Independent Agencies. I am enclosing a copy with this response along with my written testimony on the budget submission.

The answers to your questions are now provided. Of course, more detailed information is contained in the budget request.

1. Budget Request

   The agency has requested an appropriation of $705,000 for fiscal year 1986. The President's budget request for each of the two prior fiscal years was $700,000. The Budget Requests over this three year period have remained at a consistent level, and represent the resources required by the Council for statutorily mandated activities.

   The total budget authority for the agency, however, has fluctuated owing to supplemental appropriations provided by Congress for special projects or purposes. In FY 1984, CEQ received a supplemental appropriation in the amount of $600,000 to conduct two feasibility studies by contract for the Congress. The subjects of these studies were a national water resources research center and an information clearinghouse. The actual cost of this project was only $242,000. All expenditures were for contract and administrative costs of the studies, not for agency operating costs.

In the fall of 1984, CEQ received a multiyear reappropriation in the amount of $175,000 for the purposes of expanding NEPA oversight activities and strengthening the scientific and technical expertise of the Council (Conference Report on P.L. 98-396). This money was derived from surplus funds for the water studies. CEQ is using all of the reappropriation in FY 1985 for three short-term special projects, as follows:

1. publish appendices to the NEPA regulations;
2. support an interagency study of environmental risk assessment; and,
3. develop and implement work plans to improve federal environmental data and monitoring capabilities.

The total budget authority history is as follows:

$1,300,000 in FY 84, consisting of a $700,000 regular appropriation and a $600,000 supplemental;

$875,000 in FY 85, consisting of a $700,000 regular appropriation and a $175,000 reappropriation; and,

$705,000 in FY 85 for the regular appropriation.

The Council's budget request for salaries and expenses in each of the three years has remained at or about $700,000.

2. Level of Funding and Program Priorities

In FY 1986, the agency plans to redirect resources from two discontinued programs to its environmental assessment and environmental monitoring functions. Specifically, the Chemical Substances Information Network will be completed in FY 1985 and the Economic Analysis activities will have been curtailed. These developments will free up funds for use in providing oversight of the National Environmental Policy Act, in assisting with the implementation of the Nuclear Waste Policy Act, and improving federal environmental data and monitoring capabilities. A detailed plan for these additional activities is contained in the enclosed budget request.

3. Personnel

The agency has not proposed any increase or decrease in its full time equivalent employment ceiling of 13 positions. The Council on Environmental Quality and the Office of Environmental Quality will operate with the same number of positions as in the previous fiscal year. However, a shift of responsibilities is planned to provide additional assistance to the General Counsel for oversight of the National Environmental Policy Act and environmental assessment required by the Nuclear Waste Policy Act.

4. Recissions, Deferrals, and Supplements

Please note that no recissions or deferrals have been requested by CEQ for FY 1985. A $5,000 pay supplement has been requested for this fiscal year to cover the cost of scheduled salary increases.

5. Legislative Initiates

No legislative initiatives are necessary for implementing the fiscal year 1986 budget request, and none are being considered.

6. Reductions

The Council's budget request for $705,000 for FY 86 results from a minor upward adjustment ($14,000) in the budget base. This level of funding also takes into account the government-wide administrative cost reduction and the five per cent pay reduction effective January 1986. With this budget authority, CEQ intends to operate in FY 1986 at the same level of activity as the two previous fiscal years.

If the Administration's proposed pay reduction is not enacted, the Council will reprogram its funds in the object classes for Other Services; Supplies and Materials; and Rents, Communications, and Utilities.

Additional information in response to your questions is enclosed. The Council will provide whatever further information the Committee requests.

Sincerely,

A. Alan Hill

A. Alan Hill
Chairman

Enclosures

cdm/AAH

STATEMENT OF A. ALAN HILL
CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY
BEFORE THE
SUBCOMMITTEE ON APPROPRIATIONS FOR HUD & INDEPENDENT AGENCIES
SENATE COMMITTEE ON APPROPRIATIONS
MARCH 27, 1985

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before you today and thank you for the opportunity to discuss with you the President's budget request to support the activities of the Council on Environmental Quality and the Office of Environmental Quality for fiscal year 1986. With me this morning are the other two Members of the Council -- Dr. William Mills, whom you have previously met, and Miss Jacqueline E. Schafer, our newest Member, who joined CEQ in June 1984. In addition, I would like to introduce Miss Dinah Bear, General Counsel; and Mr. Kemp Harshman, Executive Officer/Deputy General Counsel.

The President has requested an appropriation of $705,000 for CEQ for fiscal year 1986, which represents a nearly constant level of funding over a three-year period for salaries and expenses. The total budget authority for the agency, however, has fluctuated due to supplemental appropriations provided by Congress for special projects or purposes. These supplemental appropriations and their uses are detailed in CEQ's budget submission.

WATER RESOURCES RESEARCH CENTER AND INFORMATION CLEARINGHOUSE

In my testimony before this Committee last year I discussed CEQ's major contract studies to consider and define a National Center for Water Resources Research, and to define and plan a National Clearinghouse for Water Resources Information. These studies, combined under a single contract, have been completed and a final report was delivered to the Congress on September 28, 1984, before the requested due date.

The Council entered into the study in a spirit of openness without any preconceived notions about the findings. In accordance with Congressional intent, CEQ encouraged the widest possible public participation.

Four public meetings were held (two in Washington, D.C., and one each in New Orleans and Denver). The comments received at these meetings assisted the Council in refining instructions to the contractor throughout the study, and provided additional substantive material used to prepare the final report. All interested persons were given an opportunity to comment, either at the public meetings or in writing. All requests for information were honored and approximately 400 persons were placed on a mailing list.

As required, the contractor developed several alternative missions for a research center and an information clearinghouse. In proposing alternatives, the contractor recognized the size and diversity of existing programs which are fragmented among a number of agencies, organizations, and institutions. A summary of the alternative missions is provided in our budget submission.

During the course of the study a number of persons in the water resources research and information community were interviewed about their views on the center and clearinghouse and others offered written comments to the CEQ during and after public meetings on the study. There was a wide diversity of views within the research community on the purposes to be served by a new research center or on the most appropriate institutional arrangement. This does not imply that the proposed research centers are without some public support, only that no apparent consensus exists on any one option. Similarly, some public and agency support was obtained for parts of all three information options. A consensus among public reviewers, however, favored a national water information referral center as the most appropriate clearinghouse option.

The Council is pleased with the final report produced by the Chesapeake Research Consortium and with the amount and degree of cooperation demonstrated by the other federal agencies, public and private organizations, and interested citizens. Without their input and additional assistance, our task could not have been as successfully accomplished.

Let me briefly highlight some of the current efforts and future plans of the Council.

LONG-TERM ENVIRONMENTAL RESEARCH CONFERENCE

During FY 1984 and 1985 CEQ, at the request of EPA and with the assistance of the National Science Foundation, convened a series of four two-day scientific and technical panel meetings. The purpose was to address specific long-term environmental research and development (R&D) topics and to discern major scientific issues requiring enhanced government or private sector attention during the remainder of the 20th century. The panel chairmen have identified a number of issues of overriding long-term national environmental R&D importance.

The chairmen recommended that the Federal government accord long-term environmental research heightened priority and a level of support sufficient that research findings will contribute to the attainment of broad national goals. This level of support need not require additional resources; it will require, however, a continuity in many existing research programs, a continuing commitment to scientific excellence, and an adequate institutional framework.

CEQ expects to disseminate a report on long-term environmental R&D, which will include the background papers from the four panel meetings, rapporteur reports summarizing the discussions of each of the panels, together with any agency comments received on the draft report.

The recommendations of the panel chairmen, along with the draft report, were announced during a briefing held March 18, 1985.

ANNUAL ENVIRONMENTAL QUALITY REPORT

The 14th Annual Environmental Quality Report was transmitted July 11, 1984. Five thousand copies were printed for distribution to Congress, federal and state agencies and interested organizations and individuals. The Government Printing Office printed an additional 3,500 copies for their sales and Depository Library programs.

As required by CEQ's authorizing statute, the report included a review of the status and condition of the nation's environment; trends in the quality, management and utilization of our air, land, and water; the adequacy of our natural resources to meet the requirements of a growing population; and programs and activities that affect the protection of our environment and the conservation and development of our natural resources. In addition, the Council made several recommendations concerning future environmental policy.

The Council is sensitive to the importance of timeliness in making the Annual Report useful in the legislative cycle of Congress and is working towards an earlier publication date this year for the 15th Annual Report by expediting the intensive interagency review process which delayed publication last year.

NATIONAL ENVIRONMENTAL POLICY ACT

One of CEQ's primary responsibilities is its oversight of the National Environmental Policy Act (NEPA). During FY 1984, the Council was extremely active in providing oversight over the implementation and administration of the environmental assessment process. Its activities included frequent consultations, on an informal basis, with federal agencies, state and local agencies, businesses, environmental organizations and private citizens regarding both statutory matters related to NEPA and the CEQ regulations which implement the Act's procedural provisions.

The CEQ regulations provide for the referral to CEQ of federal interagency disagreements concerning proposed major federal actions which might cause unsatisfactory environmental effects. During FY 1984, CEQ received a referral from the Advisory Council on Historic Preservation regarding a proposal to partially fund the Presidential Parkway in Atlanta, Georgia. The referral raised several questions; however, the Council was most concerned with whether or not the issue presented was one of "national importance" and requested comments from the public relative to this criterion under the regulations (40 C.F.R. 1504.3(f)(4)). After review of the comments, received both at a public meeting and in writing, and a visit by the Members to the site, the Council determined that this project for a 2.4 mile highway bypass raised no issue of national importance and thus concluded the referral process in accordance with the NEPA regulations.

The Council currently has two other referrals pending. The Department of Interior has referred to us the U.S. Army Corps of Engineers' proposed Wildlife Mitigation Feasibility Study for the Tennessee-Tombigbee Waterway. CEQ held a public meeting on February 19, 1985, to address specific questions regarding this referral. In addition, the Environmental Protection Agency has referred to the Council the proposed revision of the Army Corps of Engineers' NEPA procedures.

This past year CEQ updated and published in the Federal Register appendices to the NEPA regulations, for the first time since 1980, and distributed them to agencies and interested parties. In addition, on December 31, 1984, CEQ published in the Federal Register an Advance Notice of Proposed Rulemaking to solicit written responses regarding the "worst case" regulation.

The Council plans to continue to administer its NEPA regulations; to identify and promote effective and efficient methods to implement the environmental review process; and to develop, publish and distribute a variety of informative documents which would be of use to agencies, institutions and individuals who are involved in the NEPA process.

FEDERAL ENVIRONMENTAL DATA AND MONITORING

Last year, the Council published a study conducted for CEQ by the World Wildlife Fund (headed by Russell Train) to evaluate corporate use of government information on natural resources and environmental quality. Corporate executives reported that the U.S. government is the principal source of data in this area. The study resulted in several recommendations for improvements in information quality and availability. Based on these recommendations, CEQ already has published an index of government information sources on natural resources and the environment.

We are also laying the groundwork for an interagency effort to improve the effectiveness of environmental quality monitoring programs and the dissemination of the information they yield. We intend to develop a series of work plans to improve the way in which environmental quality trends are measured.

RISK ASSESSMENT

CEQ will continue to work with and financially support the Cabinet Council Working Group on Risk Assessment, established in 1984. The Council is participating in a major review of the legal and technical underpinnings of risk assessment techniques with the objective of harmonizing the different approaches used by various federal agencies.

MANAGEMENT FUND

The Management Fund for the Office of Environmental Quality was established by its Reauthorization Act, Public Law 98-581, for the purpose of financing projects jointly sponsored by OEQ and other federal agencies and for federal interagency environmental projects, such as task forces, in which the Office participates. This Management Fund replaces the Consolidated Working Fund.

The Management Fund, divided into three program divisions, provides both definitive statutory authority and detailed accountability through regular budget review and reporting requirements. The Council has adopted written operating procedures for the Management Fund.

This concludes my prepared statement. I and the Members of the Council would be happy to answer any questions you have regarding the Council and our fiscal year 1986 appropriation request.

BUDGET OVERVIEW

INTRODUCTION

Council on Environmental Quality (CEQ)

Title II of the National Environmental Policy Act (NEPA), P. L. 91-190, established the three-member Council and vested it with the following responsibilities:

- -- Report annually to the President on the state and condition of the environment and assist in the preparation of the President's Environmental Quality Report to the Congress;
- -- Review and appraise the environmental programs of the federal government to determine the extent to which they are consistent with the policies of NEPA;
- -- Conduct investigations and studies to monitor environmental trends and conditions;
- -- Document changes in the natural environment; and
- -- Make policy recommendations to the President and provide any other studies or reports the President may request.

Office of Environmental Quality (OEQ)

The Environmental Quality Improvement Act of 1970, P. L. 91-114, established the Office of Environmental Quality to provide staff and support for CEQ. The Chairman of CEQ is also designated the Director of the Office of Environmental Quality, and, as such, is responsible for all fiscal, legal, programmatic and legislative affairs conducted by the Office, and for other administrative decisions affecting the conduct of the Council and its activities.

Executive Order 11514 directed the Council to issue regulations for federal agencies to follow in implementing the environmental review requirements of NEPA. The Executive Order also directed the Council to establish a mechanism for dealing with interagency conflicts over environmental issues. This requirement compliments CEQ's responsibilities under the Clean Air Act (42 U.S.C. Sec. 7609) to mediate environmental disputes. Among other statutes which delegate responsibilities to the Council are the Toxic Substances Control Act (Co-Chair of Interagency Testing Committee and Interagency Toxic Substances Data Committee), Endangered Species Act (review reports and notice exemptions), the Marine Mammal Protection Act (recommend new Marine Mammal Commissioners), and the Nuclear Waste Policy Act (provide consultation to DOE and comment upon environmental impact statements).

The evaluation and reporting of the status of environmental quality in the U.S. and those aspects of the global environment impacting on the U.S.

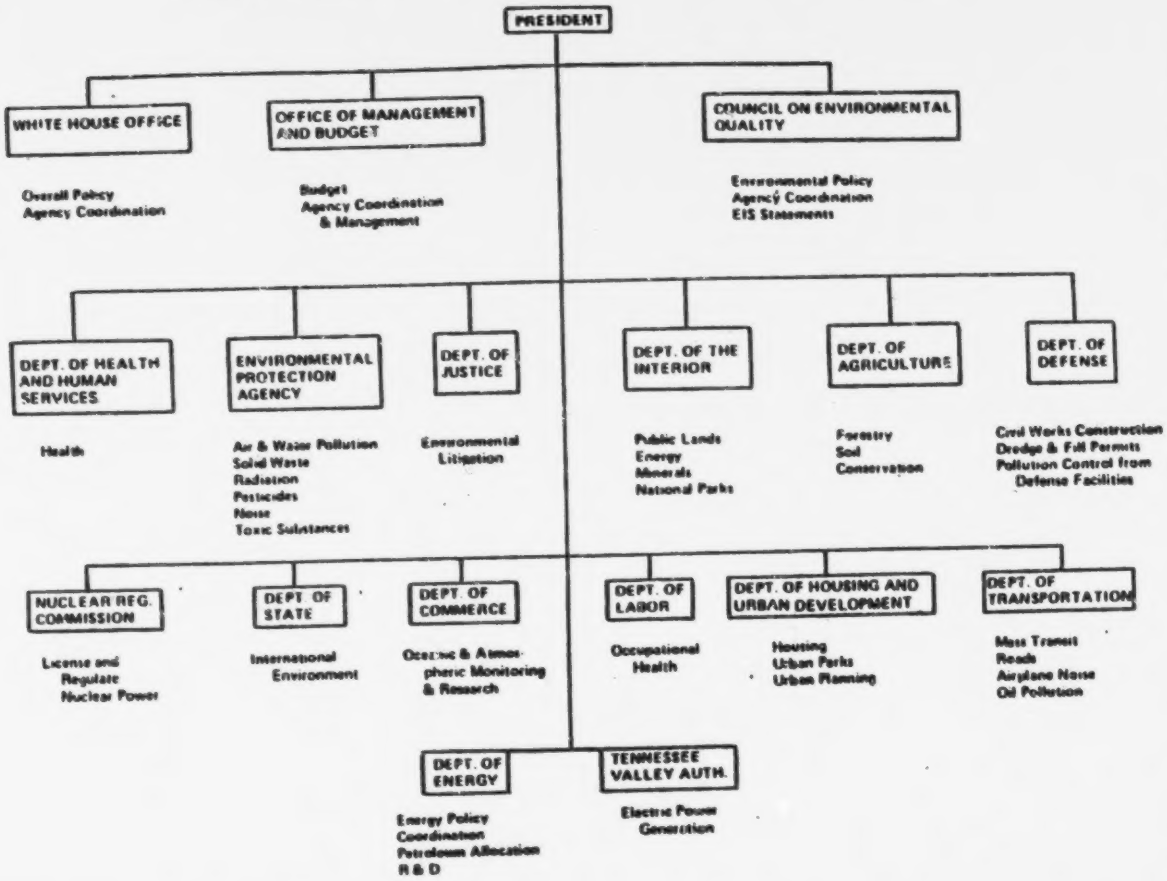
environmental policies are part of a continuing response to understanding environmental problems. A principal portion of the effort is in maintaining a high level of environmental quality by continuing oversight of the NEPA application to projects and activities affecting the environment.

BASIS OF CEQ/OEQ's ROLE

The fundamental consideration underlying the creation of CEQ and OEQ was recognition by Congress of the breadth of environmental quality concerns. In the hearings held prior to the enactment of NEPA, Congress learned that almost all federal activities affected environmental quality in one way or another and that only rarely did the agencies consider the effects of their activities on the environment before making decisions and taking actions. Thus, in Title I of NEPA, Congress declared a national environmental policy. The policy explicitly recognizes that conflicting policy interests in the use of living and non-living resources require balancing.

In order to oversee the implementation and development of this national environmental policy, Congress established CEQ/OEQ as an independent, high-level agency. Unlike mission-oriented line agencies, such as the Environmental Protection Agency and the Department of the Interior, CEQ/OEQ's interest in questions of environmental quality is not affected by program requirements or regulatory responsibilities. Since CEQ/OEQ is a part of the Executive Office of the President, it is in a unique position to coordinate the efforts of federal agencies in environmental programs and to mediate disputes among them. The relationship between CEQ/OEQ and the other federal agencies is illustrated in the organization chart entitled "Major Executive Branch Agencies with Environmental Responsibilities," on page 2a.

MAJOR EXECUTIVE BRANCH AGENCIES WITH ENVIRONMENTAL RESPONSIBILITIES


PRESIDENT
WHITE HOUSE OFFICE
Overall Policy
Agency Coordination
OFFICE OF MANAGEMENT AND BUDGET
Budget
Agency Coordination & Management
COUNCIL ON ENVIRONMENTAL QUALITY
Environmental Policy
Agency Coordination
EIS Statements
DEPT. OF HEALTH AND HUMAN SERVICES
Health
ENVIRONMENTAL PROTECTION AGENCY
Air & Water Pollution
Solid Waste
Radiation
Pesticides
Noise
Toxic Substances
DEPT. OF JUSTICE
Environmental Litigation
DEPT. OF THE INTERIOR
Public Lands
Energy
Minerals
National Parks
DEPT. OF AGRICULTURE
Forestry
Soil
Conservation
DEPT. OF DEFENSE
Civil Works Construction
Dredge & Fill Permits
Pollution Control from Defense Facilities
NUCLEAR REG. COMMISSION
License and Regulate Nuclear Power
DEPT. OF STATE
International Environment
DEPT. OF COMMERCE
Oceanic & Atmospheric Monitoring & Research
DEPT. OF LABOR
Occupational Health
DEPT. OF HOUSING AND URBAN DEVELOPMENT
Housing
Urban Parks
Urban Planning
DEPT. OF TRANSPORTATION
Mass Transit
Roads
Airplane Noise
Oil Pollution
DEPT. OF ENERGY
Energy Policy
Coordination
Petroleum Allocation
R & D
TENNESSEE VALLEY AUTH.
Electric Power Generation

SOURCE: Environmental Protection: Agenda For The 1980's, General Accounting Office CED-82-73 May 5, 1982

AUTHORIZATION AUTHORITY

The Council on Environmental Quality was granted a permanent budgetary authorization of $1,000,000 per year under the National Environmental Policy Act (P.L. 91-190). In addition, the Office of Environmental Quality and Council on Environmental Quality Authorizations (98 STAT. 3093) authorizes appropriations for the Office of Environmental Quality in the additional amount of $480,000 for the fiscal year ending September 30, 1986. The Reauthorization Act is reproduced as Appendix B.

The agency request of $705,000 represents the resource requirements of both the Council and the Office.

FY 1984 AND FY 1985 RESOURCE LEVELS

The CEQ/OEQ FY 1984 resource level consisted of a $700,000 appropriation for Salaries and Expenses and a $600,000 supplemental appropriation to conduct national feasibility studies for a Water Resources Research Center and a Water Resources Information Clearinghouse (PL 98-181). (An Executive Summary of the study report is attached as Appendix C. The contract, which was awarded through competitive bid on March 5, 1984, was in the amount of $208,700. The addition of related expenses brought the total cost of this study to approximately $250,000. The final report of the study was delivered to Congress by the required date of September 30, 1984. The study was completed at a cost to the taxpayers of less than half the amount appropriated.

A portion of the surplus water study funds was reappropriated to the agency for its own uses in accordance with Congressional directives. This was the result of Amendment No. 58 to the Supplemental Appropriations Act of 1984 offered in the Senate, which stated:

> "Of the amounts appropriated under this heading in Public Law 98-181, $350,000 shall be available for the necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Improvement [Policy] Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, to remain available until September 30, 1985."

The House proposed a change to Senate Amendment No. 58 which decreased the amount of $350,000 to $175,000. The Conference Agreement adopted the House version, which provided $175,000 from the leftover funds for general operating expenses of the Council, to remain available through fiscal year 1985. (The agency chose not to expend any of these funds in FY 1984 and has reserved the resources for its FY 1985 program.) The conferees agreed that these funds are to be used to expand NEPA oversight activities and to strengthen the technical and scientific expertise of the Council (Conference Report on P.L. 98-396).

Accordingly, the available funding for CEQ/OEQ in FY 85 is $875,000, which consists of the $700,000 regular Appropriation, along with the $175,000 Reappropriation. The FY 1985 full-time equivalent employment ceiling for the agency is 13 work years.

Note: Appendices referred to throughout this document have been retained in committee files.

CEQ is using the reappropriated monies to expand its environmental data and monitoring program, to update and publish appendices to the NEPA regulations, and to support an intensive interagency study of environmental risk assessment. These program enhancements are discussed in the section below.

USE OF REAPPROPRIATED FUNDS IN FY 1985

In early FY 1985, the Council signed an interagency agreement with the Department of the Interior, whereby DOI will be reimbursed in an amount not to exceed $60,000 for the detail from DOI to CEQ of an environmental data and monitoring specialist for a period of one year. In doing this, the Council acquired the services of an experienced career civil servant with valuable contacts throughout the federal government. This agreement will facilitate the following objectives for which the Council has responsibility:

1. Preparation of a Directory of federal agency environmental monitoring programs.
2. Implement renewed communication among federal agencies regarding common interests in environmental monitoring.
3. Facilitate the sharing of environmental monitoring data and information.
4. Development of work plans to implement appropriate recommendations of the report of the Interagency Task Force on Environmental Data and Monitoring.

The addition of this environmental data and monitoring specialist will not only strengthen the scientific and technical expertise of the Council, but will also serve to better coordinate related efforts in this area, to avoid duplication of effort, and to give other agencies a direct link into the process of planning improvements in environmental monitoring.

In addition, the Council expended funds in the amount of $15,000 from its Reappropriation to print in the Federal Register the National Environmental Policy Act (NEPA) Implementation Procedures; Appendices I, II, and III (40 CFR Ch. V). (See Appendix D. These appendices are intended to improve public participation in and facilitate agency compliance with NEPA and the Council's NEPA regulations. Appendix I updates and replaces the Federal and Federal-State Agency NEPA Contacts that previously appeared in the Federal Register in August, 1980. Appendix II updates and replaces the compilation of Federal and Federal-State Agencies With Jurisdiction by Law or Special Expertise on Environmental Quality Issues that appeared in the August, 1980, Federal Register. Appendix III is reinstated as an update listing of "Federal and Federal-State Agency Offices for Receiving and Commenting on Other Agencies' Environmental Documents," which last appeared in the Federal Register in August, 1973.

The remaining funds in the amount of $100,000 are to be used to support the newly established Cabinet Council Working Group on Risk Assessment in its studies and analyses of environmental risk assessment. CEQ, in its 1983 Annual Report, recommended that government agencies and laboratories engaged in risk assessment should attempt to make their procedures consistent and that a coordinated approach to risk assessment be developed.

This Cabinet Council Working Group has been established to develop a methodology for consistent risk assessment for all federal agencies involved in decisions regarding the public health and environment that must be made in light of scientific uncertainty.

The Council has an intense interest in this area, since risk assessment is often utilized in the preparation of an environmental impact statement. This activity is concerned with both NEPA oversight and with technical expertise as they relate to assessing scientific uncertainty.

BUDGET REQUEST FOR FY 1986

The President's FY 1986 Budget for CEQ/OEQ totals $705,000, which consists of thirteen work years. The request is an increase of $5,000 over the funding level from the current 1985 appropriation. There is no change in agency staffing from FY 85 levels.

The Council will spend approximately 75 percent of its funds on salary and benefit costs. Of the remaining balance of funding requested, approximately seven percent will be for Standard Level User charges and 2.5 percent will be expended on such items as travel, telephones, printing and supplies. The Council will continue to utilize nonreimbursable detailees from other agencies and contractors to accomplish specialized tasks.

For additional details, a tabular presentation of anticipated FY 1986 expenditures is included in the Budget Summary, Page 31.

EXPLANATION OF INCREASES AND DECREASES

The President's FY 1986 Budget for CEQ/OEQ represents a nearly level projection of current outlays for salaries and expenses. The FY 1986 request is $705,000, an increase of $5,000 over the previous regular appropriation.

This increase results from a government-wide administration cost reduction, and a five percent pay reduction effective January 1986, together with the increase in funding required to pay for the 1985 pay raise during fiscal year 1986. Although there are changes in individual programs, the agency intends to operate at the same level of activity as the current fiscal years.

In essence, the difference in funding between fiscal years 1985 and 1986 is the $175,000 Reappropriation. This money will be used for three special projects.. The President's Budget Request for FY 1986 will support the level of activity and staff required for basic operation of the agency.

PROGRAM HIGHLIGHTS

A summary of major programs for CEQ/OEQ in Fiscal Years 1984, 1985, and 1986 is presented below:

Agency Accomplishments for FY 1984

Major programs conducted in FY 1984 include:

1. Oversight of NEPA and agency implementing regulations;
2. NEPA study of worst case analysis;
3. NEPA Referral of proposed Presidential Parkway, Atlanta, Georgia;
4. The 1983 Annual Environmental Quality Report;
5. Feasibility studies for a Water Resources Research Center and Water Resources Information Clearinghouse;
6. Publication of "Corporate Use of Information Regarding Natural Resources and Environmental Quality," (Russell E. Train, President, World Wildlife Fund, May, 1984);
7. Conference on Long-Term Environmental Research needs for the remainder of the century;
8. "U.S. Government Participation in International Treaties, Agreements, Organizations and Programs," (an Inventory prepared by the Department of State at the request of the Federal Interagency Global Issues Working Group, January 1984);
9. Participation in United Nations Environment Programme, working group of environmental impact assessment experts.

Agency Activities for FY 1985

Major programs being conducted in FY 1985 include:

1. Oversight of NEPA and agency implementing regulations and proposed revisions;
2. NEPA study of worst case analysis and consideration of regulatory action; Advance Notice of Proposed Rulemaking (40 C.F.R. 1502.22);
3. Referral of proposed Tennessee-Tombigbee Wildlife Mitigation Plan;
4. The 1984 Annual Environmental Quality Report;
5. Develop and implement work plan for improvement of environmental data and monitoring systems, including preparation of the Environmental Trends report.
6. Provide mediation of interagency disputes pertaining to the environmental assessments prepared for potential nuclear waste repository sites under the Nuclear Waste Policy Act;

7. Conference on the Private Sector Initiatives for Species Preservation;
8. Publication of final report and consideration of recommendations on Long- Term Environmental Research needs;
9. Transfer of the CSIN technology to the private sector;
10. Host visit of Japanese delegation under U.S.-Japan bilateral agreement on environmental protection.

Agency Activities Planned for FY 1986

Major programs planned for FY 1986 include:

1. Oversight of NEPA and agency implementing regulations;
2. Follow-up as appropriate on worst case issue;
3. Review of agency implementation of Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions;"
4. Implementation of recommendations from Cabinet Council Working Group on Risk Assessment;
5. The 1985 Annual Environmental Quality Report;
6. Completion and publication of the Environmental Trends report;
7. Publication of a directory of all existing federal environmental monitoring programs.
8. Participation in interagency committee to oversee implementation of the moratorium on commercial whaling.
9. Continuation of implementation of recommendations of Conference on Long-Term Environmental Research;
10. Implementation of appropriate recommendations of Interagency Task Force on Environmental Data and Monitoring;
11. Host visit of delegation from U.S.S.R. under bi-lateral agreement for environmental protection; and
12. Review and comment upon the environmental impact statement for Nuclear Waste Repository.

AGENCY STAFF STRUCTURE

CEQ is composed of a Chairman and two Members appointed by the President and confirmed by the Senate. Chairman A. Alan Hill previously served in the California state government as Assistant to the Secretary for Resources and as Deputy Secretary for Agriculture and Services. Member William L. Mills comes to the Council as a biologist and a former associate professor of environmental engineering at Vanderbilt University. He holds a doctorate degree in Environmental Engineering and Water Resources. Member Jacqueline E. Schafer joined the Council in June, 1984 after serving as Regional Administrator of the Environmental Protection Agency, Region II, in New York City. Previously, she was a Professional Staff Member of the Senate Committee on Environment and Public Works for five years.

OEQ provides staff support for the Council and includes the following positions: three environmental law specialists (one part-time), an administrative officer, an executive officer (part-time), two secretaries, and an executive assistant. Detailees include an environmental regulations specialist, an environmental data and monitoring specialist, and an environmental policy analyst.

FY 1986 BUDGET JUSTIFICATION BUDGET PROGRAMS

I. ENVIRONMENTAL POLICY ANALYSIS AND DEVELOPMENT

A. BASIC OBJECTIVES

1. Develop and recommend to the President national policies to effectively and economically promote and protect environmental quality;
2. Monitor environmentally-related activities of federal agencies to assure continued environmental quality;
3. Annually report to the President and the Congress, and through them, to the Nation, on the condition of the environment and trends affecting it so that any corrective actions necessary may be initiated in a timely maner;
4. Oversee the National Environmental Policy Act (NEPA);
5. Help coordinate federal environmental programs that involve more than one agency; and
6. Advise and assist the President and the agencies in achieving international cooperation on environmental problems.

B. ORGANIZATION AND RESOURCE REQUIREMENTS

Funds in Thousands of Dollars

	FY 1984 (Actual)		FY 1985 (Estimate)		FY 1986 (Estimate)		Difference (1985-1986)	
	FTE	Funds	FTE	Funds	FTE	Funds	FTE	Funds
Appropriation	6.0	$314	5.0	$272	5.0	$275	0	+$3
Supplemental		$242		$100				
Reappropriation				$100				

CEQ/OEQ proposes to allocate a total of five work years and $275,000 to achieve the environmental policy analysis and development objectives. The new funding level reflects the pay and administrative cost adjustments to the agency budget and does not represent a change in activity level.

The program responsibilities in this area are primarily assumed by the Chairman and two Council Members. Assistance is provided by technical, legal, and administrative OEQ staff members. The work effort is concentrated in analytical activities, program liaison, and procurement management.

The Council received a $600,000 Supplemental Appropriation in FY 1984 to conduct feasibility studies for a Water Resouce Research Center and an Information Clearinghouse. The total cost of this project was $241,885.

Congress reappropriated $175,000 of the surplus funds from the Supplemental for certain Council activities, to be available through FY 1985. CEQ will use $100,000 of the reappropriated funds for its Presidential Advisor responsibilities, as explained below. These funds will support an outside study and will not result in a change in staffing.

In essence, the difference in funding between fiscal years 1985 and 1986 for Environmental Policy Analysis and Development is $100,000 from the Reappropriation. This money will be used for a special project in Risk Assessment, as explained below. The President's Budget Request for FY 1986 will support the level of activity and staff required for basic operations in this agency area.

C. PROGRAM RESPONSIBILITIES

1. PRESIDENTIAL ADVISOR

a. Program Description

CEQ/OEQ has a responsibility to provide expert opinion and policy advice to the President on environmental matters. In fulfilling this responsibility, the Chairman relies on input from other Council Members and the Office of Environmental Quality staff for in-depth review of pertinent issues.

This function involves a variety of activities, including:

- meetings with White House and Executive Office Staff;
- memoranda to Executive Office staff and its agencies, particularly to members of the White House policy development staff and to OMB; and
- meetings of the Cabinet Council for Natural Resources and the Environment.

In addition, the Chairman represents the President at formal national and international meetings concerned with environmental affairs. In these meetings the Chairman acts in concert with heads of other agencies with responsibilities for environmental protection.

In order to enable the agency to provide practical and informed advice to the President, numerous discussions are held with representatives of science, industry, agriculture, labor, conservation organizations, state and local governments, and other groups. For instance, the CEQ Chairman had 71 meetings with various organizations in FY 1984. The resulting dialogue assists CEQ/OEQ in performing its responsibilities in a manner which is responsive to public needs.

b. Program Accomplishments and Current Activities

CEQ/OEQ has important responsibilities in overseeing implementation of environmental decisions by the President. For instance, the agency is actively involved in both the preparation of and commenting on drafts of environmental messages, executive orders and decision memoranda. In addition, the Council coordinates the process of suggesting candidates for appointment of members of the Marine Mammal Commission. (The Marine Mammal Protection Act requires coordination with the National Academy of Science, National Science Foundation, and the Smithsonian Institution.) CEQ/OEQ also recommends names of individuals for consideration by the Office of Presidential Personnel for other appointments.

The Chairman of CEQ, as a member of the White House Cabinet Council on Natural Resources and Environment, helps oversee and direct the administration's environmental policy. The Cabinet Council established two working groups in 1984, one to deal with the emerging area of biotechnology and the other with the federal approaches to risk assessment. CEQ has served an important role on the Cabinet Council Working Group on biotechnology by providing guidance on the adequacy of federal law and regulation to protect public health and the environment from the possible hazards associated with the products and process of biotechnology. The Council has also provided input regarding the establishment of an interagency biotechnology risk assessment body. CEQ is also working with the Cabinet Council Working Group on Risk Assessment seeking to harmonize the different approaches used by various federal agencies to conduct risk assessment. CEQ will participate in a major review of the legal and technical underpinnings of risk assessment techniques. The Council has reserved $100,000 from its reappropriated supplemental to support the activities of the Cabinet Council Working Group on Risk Assessment.

During FY 1985, CEQ/OEQ will continue oversight of the work of the International Whaling Commission in support of the moritorium on commercial whaling. In this regard, CEQ participates in an interagency committee which will oversee implementation of the moratorium on commercial whaling, which is to go into effect in 1986, and will also be involved in a working group of the International Whaling Commission regarding the future of that international organization.

c. Proposed FY 1986 Activities

CEQ/OEQ will continue to review and make recommendations related to environment-oriented Executive Orders. The Council will also continue to be involved in the development of the Administration's legislative proposals in the environmental area.

2. ANNUAL ENVIRONMENTAL QUALITY REPORT

a. Program Description

The Council is required by its authorizing statute to assist the President in preparing a report to Congress on the status and condition of the nation's environment, and the trends in the quality, management and utilization of its air, land, and water; on the adequacy of our natural resources to meet the requirements of a growing population; and on programs and activities that affect the protection of the environment and the conservation and development of our natural resources. The annual report also sets forth recommendations, including legislative proposals, as appropriate.

To carry out this mandate, the Council relies on original data sources developed by other federal agencies, and solicits from environment and natural resource agencies narrative descriptions of their current programs and activities. The annual report also contains those findings and analyses of the CEQ/OEQ which have been developed independently through its own studies and activities required by NEPA and other authorities.

b. Program Accomplishments and Current Activities

The 14th Annual Environmental Quality Report was transmitted on July 11, 1984. Five thousand copies of the report were printed and distributed to Members of Congress, federal and state agencies and interested organizations and individuals. The Government Printing Office printed an additional 3,500 copies for their sales program and distribution to Depository libraries. The printing of the latest annual report was delayed by the length of the interagency review process. The Council is aware of the expectation by the Congress that the report be published earlier in the year. Accordingly, the Council will endeavor to expedite the review process by meeting earlier and more frequently with writers and reviewers in the various agencies involved. However, it should be noted that certain critical sources of data are themselves often unavailable until the turn of the calendar year. Nevertheless, the Council is aware of the importance of timeliness in making the report useful in the legislative cycle of the Congress.

c. Proposed FY 1986 Activities

The Council expects to publish the 16th Annual Environmental Quality Report, covering calendar year 1985, in the Spring of 1986. To ensure the quality and timeliness of this reference and policy document, a member of the Council has been assigned responsibility for supervising all preparation of the annual report.

3. INTERNATIONAL ENVIRONMENTAL ISSUES

a. Program Description

CEQ has a substantial role, along with the State Department, EPA and other agencies, for development and recommendation of policies on global environmental issues, for oversight of federal activity which significantly affects the quality of the human environment outside the United States, and for liaison with representatives of foreign governments and international organizations about mutual interests concerning preservation of the world's resources.

b. Program Accomplishments and Current Activities

(i) Global Issues Working Group

CEQ has long been active in international environmental issues. A primary focus of involvement over the past three years has been the Global Issues Working Group (GIWG), established at the request of the President in September, 1981. The Global Issues Working Group is headed by the Chairman of CEQ and is comprised of senior policy level representatives from the Department of Agriculture, Department of Commerce (NOAA), Department of Defense,

Department of Energy, Department of the Interior, Department of Health and Human Services, Department of Housing and Urban Development, Department of Justice, Department of Education, Department of State, the Environmental Protection Agency, the Agency for International Development, the Office of Management and Budget, the National Security Council, the Office of Science and Technology Policy, the Federal Emergency Management Agency, the National Aeronautics and Space Administration, and the National Science Foundation. The purpose of the GIWG is to coordinate development of the Executive Branch's response to some of the most pressing global problems of environment, population and resources raised by recent studies and reports.

In FY 1984, the agenda for the Group concentrated on preparing a report for the Cabinet Council on Natural Resources and Environment consisting of the Executive Branch's perspectives on global environment and natural resources issues, a status report and perspective on foresight capability in government decisionmaking, and a series of issue papers on the status of major global issues. These papers are scheduled for completion in FY 1985. In connection with this activity, a number of other reports and projects were finished, including:

(1) An inventory of multilateral and bilateral agreements in the environment and natural resources area which was published in January, 1984; and

(2) An agency survey of management capabilities in environment and natural resource data acquisition and analysis.

(ii) "Corporate Use of Information Regarding Natural Resources and Environmental Quality"

The Council has completed an in-depth study about private sector uses of the global resource information sources provided by the federal government. The result of this project was an extensive inventory of environmental data bases and an 88-page report entitled "Corporate Use of Information Regarding Natural Resources and Environmental Quality". (Russell E. Train, President, World Wildlife Fund, May, 1984.) The report was published and distributed to key federal policymakers to assist them in evaluating the relevance and usefulness of agency information services. Copies of the report were sent to Members of the Appropriations Committee in May 1984.

One of the major concerns expressed by corporate participants in the study had to do with the cost of implementing the recommendations. The government was strongly urged to use cost-effective measures that could be accomplished within current budgets. The participants also stressed that the recommendations should be funded by discontinuing ineffective statistical programs which already exist.

The second overall concern, and one expressed quite vehemently by the participants, was that the private sector and not the federal government, should be given responsibility for implementing many of these recommendations. In particular, this opinion was expressed in relation to creating and maintaining an index of government natural resource information, creating a clearinghouse for international resource data, and improving forecasting. As part of the reasoning behind this reaction, the participants stated that the implementation of these recommendations would be extremely costly, and that private sector companies might be able to handle the task more efficiently than the federal government.

One of the report's recommendations was acted upon during FY 1984, and an annotated index to sources of environment and natural resources data and reports was jointly published by the Department of Energy and the Council on Environmental Quality, "Gaining Access to U.S. Government Information on the Environment and Natural Resources", November, 1984.

In FY 1985, CEQ will explore the feasibility of implementing any or all of the other recommendations which resulted from the inventory of environmental data bases and those encompassed in the report, "Corporate Use of Information Regarding Natural Resources and Environmental Quality".

(iii) Other

-- In August, 1984, a Member of the Council was appointed by the President to serve on the United States Delegation to the Second International Conference on Population in Mexico City.

-- In FY 1984, a representative of the Council attended the annual Governing Council meeting in Nairobi for the United Nations Environment Programme and met with diplomats from several governments.

-- During FY 1984 and into the first quarter of FY 1985, CEQ reviewed and commented on drafts of a proposed United States strategy to protect and conserve biological diversity in developing countries. Under the International Environmental Protection Act of 1983 (P.L. 98-164), such a strategy was directed to be developed by the Agency for International Development in conjunction with CEQ and other agencies, and a report submitted to Congress in FY 1985.

-- CEQ has been involved in international environmental issues in many other ways. For example, staff from the Office of Environmental Quality participate in an interagency international environment affairs committee chaired by the Department of State. Council Members are often involved in discussions with non-government organizations concerning global projects.

c. Proposed FY 1986 Activities

In FY 1986, CEQ will continue to monitor global environmental issues and to act as Chair of the Global Issues Working Group. Emphasis will be given to overcoming deficiencies in global data and to improving interagency coordination on environmental natural resource data collection, analysis and use. CEQ will also maintain its efforts to coordinate improvement of agencies' capabilities to use modeling techniques and analyze trends in global environment indices and to review the relevance and quality of agency data sources.

CEQ will continue to be a participant in ad hoc U.S. committees formed to address special issues, including U.S. preparation for particular international meetings and conferences, as well as monitoring international conventions and treaties. CEQ will continue to serve as an environmental policy advisor, observer and/or representative of the Administration to international meetings.

Also in FY 1986, CEQ will monitor the implementation of the U.S. strategy to conserve bioligical diversity in developing countries and advise AID in carrying out specific policies and programs relating to the International Environmental Protection Act of 1983.

4. ENVIRONMENTAL POLICY DEVELOPMENT STUDIES AND PROJECTS

a. Program Description

The Council is required by the National Environmental Policy Act "to conduct investigations, studies, surveys, research, and analyses relating to . . . environmental quality." Each year, the Council prepares several special reports. Some are done completely in-house; others are done with contract assistance, often with the cooperation of other agencies.

b. Program Accomplishments and Current Activities

Water Resources Research Center and Information Clearinghouse Studies

Early in FY 1984, CEQ/OEQ was directed by the Congress "to conduct a study to consider and define a National Center for Water Resources Research, and a study to define and plan a National Clearinghouse for Water Resources Information" (Pub. L. 98-181, November 30, 1983). The study was conducted under limited time constraints established by Congress. The Council took steps to ensure that the deadline could be met. The final report of the study was delivered to Congress (before the due date) on September 28, 1984.

The study was entered into by the Council in a spirit of openness without any preconceived notions about the eventual findings. CEQ's objective was to prepare and transmit a balanced report, offering policy options to the Congress. The agency was also responsive to the legislative branch's concerns abut public involvement. The sponsors of the implementing legislation had encouraged the Council to hold public hearings during the course of the study. In addition, the Conference Committee Report had directed CEQ to consult with the Corps of Engineers, the Geological Survey, and the Environmental Protection Agency to develop the work statement and assist in contract management.

The Council recognized the broad public interest that would be aroused by the study. CEQ went beyond what had been requested to encourage public and agency participation. For instance, key contact personnel dealing with water resources in approximately 15 other federal agencies were given an opportunity to review various drafts as the work statement evolved. The Council held a pre-proposal conference open to the public to clarify any uncertainties about the request for Proposal.

Four public meetings were held (two in Washington, D.C. and one each in New Orleans and Denver). All public meetings were announced well in advance in the Federal Register. All requests for information were honored, and those making such requests were placed on a mailing list to receive future publications and announcements. Approximately 400 persons were on the initial mailing list for the final report.

The comments received at these meetings assisted the Council in refining instructions to the contractor throughout the study, and provided additional substantive material used to prepare the Council's report to the Congress at the completion of the study. Those not wishing or not able to present oral comments at the public meetings were afforded the opportunity to provide written comments to the Council during the same time period. CEQ provided a summary of the public comments to interested individuals, agency officials, and Members of Congress.

The work plan required the contractor to develop several alternative missions for a research center and an information clearinghouse. Appendix C provides a summary of the alternative missions.

In conducting the study, the contractor made two major observations. First, water resources research is a mature field with large and diverse existing programs which are fragmented among a number of agencies, organizations and institutions. The rationale for creating a new center must recognize the nature of this existing situation. The appropriate question must be, for any given proposed research center, what other research organizations have to move over to accommodate it. Among the areas that appear to have the most promise for a new center are policy studies and information synthesis. Second, there are a number of information systems oriented towards either data or documents which, when viewed in the aggregate, appear to meet the information needs of the water resource community. However, many user needs are unmet because of individual user unfamiliarity with many of the separate water information systems. Although information exists, it is unavailable to many prospective users because of lack of awareness.

During the course of the study, the contractor interviewed a number of persons in the water resource research and information community about their views on the center and clearinghouse, and others offered written comments to the CEQ. It was found that there was little agreement within the research community on the need to be met by a new center or the preferred institutional arrangement. This does not imply that the proposed research centers are without some public support, only that no apparent consensus exists on any one option. Similarly, some public and agency support was obtained for parts of all three information options. A consensus among public reviewers, however, favored a national water information referral center as the preferred clearinghouse option.

Long-Term Environmental Research Conference

Fiscal Year 1984 saw the unfolding of the Council's Long-Term Environmental Research Conference. During FY 1984 and 1985, CEQ convened a series of four two-day scientific and technical panel meetings to address specific clusters of long-term environmental research and development topics. The purpose of this interagency project is to discern major technical areas requiring enhanced government or private sector attention during the remainder of the century. A series of recommendations were developed that accord long-term environmental research heightened priority and a level of support sufficient that research findings will contribute to the attainment of broad national goals. This level of support need not require additional resources; it will require, however, a continuity in many existing research programs, a continuing commitment to scientific excellence, and an adequate institutional framework.

Additional Activities

In cooperation with the Department of the Interior, CEQ is conducting a study with contract assistance to develop an inventory of private sector natural resource conservation activities. A Member of the Council directs the study. It is expected to be completed in the second quarter of FY 1985 and the results presented in the forthcoming annual Environmental Quality Report. It will document a variety of wholly private activities that generate public benefits that are similar to those provided by government programs for land conservation, species protection and recreation. It will also attempt to discover and analyze the incentives and barriers that influence these private efforts, and explore issues in establishing, financing and managing them.

CEQ/OEQ expects to competitively award a contract to conduct a symposium to examine private sector initiatives for species preservation. The purpose of this FY 1985 project would be to identify conditions necessary for promoting beneficial private investment in wildlife management programs. The symposium will include all interested organizations and individuals. Economic, legal, biological, and policy factors which influence various approaches will be explored. Proceedings will be published.

In addition, CEQ has been asked by EPA to assist with peer review of proposed environmental regulations, standards and guidelines by independent technical experts in various fields of science. Reviews commissioned by the Council for FY 1984 include:

Analysis of Ozone Air Quality - Phase I
User Fees for Environmental Qualilty
Peer Review of Chemical Exposure Research Plan
Synergistic Health Effects of Pesticides
Symposium on Advances in Quantitative Risk Assessment
Cost Effectiveness of Historical Pesticide Decisions
Information Systems for Managing the Regulatory Development Process
Non-Herbicidal Control of Vegetation for Rights of Way
Investigation of Alternative Methods to Perform Quantitative Risk Assessment for Reproductive and Teratogenic Effects
Assessment of Biological Pest Control Agents
Improving Policy and Technical Coordination During the EPA Rulemaking Process
Guidelines for Peer Review of the Scientific Basis for Regulatory Development
Implementation of the Federal Insecticide, Fungicide, and Rodenticide Act and the Endangered Species Act
Environmental Regulation, New Source Bias and Innovation
Administration of the Regulatory Negotiation Process

Studies under consideration for FY 1985 include:

Pesticide Innovation
Analysis of Regulatory Negotiations
Hazardous Waste Enforcement Training
Point Source Pesticide Contamination of Ground Water
Enhancements for Information Systems
Regulatory Analysis for Farmworker Protection
Pesticide Benefits

Hazardous Waste Risk Assessment
Ozone Air Quality - Phase II
Completion of Policy Coordination System
Analysis of Environmental Programs for Indian Lands

Contract activities of the agency are also discussed in the Section entitled, "Management Fund" beginning on page 39.

c. Proposed FY 1986 Activities

In FY 1986, CEQ proposes to expand the inventory of private sector natural resource conservation activities and develop policies and projects that will encourage private efforts to protect open space, habitat and biological diversity in the U.S. and abroad.

II. INTERAGENCY COORDINATION OF ENVIRONMENTAL QUALITY PROGRAMS

A. BASIC OBJECTIVES

In order to meet its statutory responsibilities, CEQ/OEQ's basic interagency environmental program coordination objectives are:

1. To assist federal agencies in achieving the goals of the National Environmental Policy Act;
2. To promulgate and maintain regulations implementing the procedural provisions of the National Environmental Policy Act that will effectively integrate public involvement and the consideration of environmental impacts into agency decisionmaking;
3. To assist in coordinating federal programs and statutory environmental review requirements and to develop recommendations for improvement of environmental review requirements.
4. To assist in coordinating federal environmental programs that involve more than one agency; and
5. To actively participate in the OMB coordination and clearance process for proposed legislation related to environmental quality.

B. ORGANIZATION AND RESOURCE REQUIREMENTS

Funds in Thousands of Dollars

	FY 1984 (actual)		FY 1985 (estimate)		FY 1986 (estimate)		Difference (1985-1986)	
	FTE	Funds	FTE	Funds	FTE	Funds	FTE	Funds
Appropriation	3.5	$173	3.5	$173	4.5	$250	+1	+77
Reappropriation				$ 15				

CEQ/OEQ proposes to allocate a total of four and one-half work years and $250,000 to achieve the interagency coordination of environmental program objectives.

The Council received a $600,000 Supplemental Appropriation in FY 1984 to conduct feasibility studies for a Water Resource Research Center and Information Clearinghouse. The total cost of this project was $241,885. Congress reappropriated $175,000 of the surplus funds from the Supplemental for certain Council activities, to be available through FY 1985. CEQ will use $15,000 of the Reappropriated funds for a special project involving the NEPA regulations as explained below. These funds will be used for publication expenses and will not result in a change in staffing.

In essence, the difference in funding between fiscal years 1985 and 1986 for Interagency Coordination of Environmental Quality Programs is $15,000 from the Reappropriation for the special NEPA project. The President's Budget Request for FY 1986 will support the level of activity and staff required for basic operations in this agency program area.

The NEPA program responsibilities are primarily assumed by the General Counsel's Office. The work effort is concentrated in legal advice, regulation, and institutional coordination.

The Council is responsible for coordination of federal environmental programs that involve more than one agency. For example, a Council Member is assigned to oversee the activities of the Interagency Taks Force on Acid Precipitation.

This level of resource allocation represents an increase of one full-time equivalent employment. This reallocation of resources will allow CEQ to fulfill its increased responsibilities under the Nuclear Waste Policy Act and to better perform its NEPA oversight functions.

C. PROGRAM RESPONSIBILITIES

1. OVERSIGHT OF AGENCY IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT

a. Program Description

NEPA was the first of the major environmental statutes passed in the 1970's and has two primary aims: first, to ensure that a federal decisionmaker considers the environmental impacts of his actions, and secondly, to provide a means by which the public is informed and can participate in the analysis of environmental impacts of a proposal.

Oversight of agencies' implementation of NEPA is a statutorily mandated duty of the Council on Environmental Quality. The act requires, among other things, that all federal agencies prepare Environmental Impact Statements (EISs) for major federal actions which will have a significant effect on the quality of the human environment.

Executive Order 11514 directed the Council to issue regulations to federal agencies to implement the procedural aspects of NEPA. The Council developed these in 1978 and currently oversees their implementation. The Council advises federal agencies concerning their procedures for fulfilling their NEPA responsibilities. The Council also interprets the NEPA regulations and is a source of information and advice for government agencies and members of the public concerning NEPA requirements.

b. Program Accomplishments and Current Activities

During FY 1984, the Council continued to fulfill its responsibility to provide oversight over the implementation and administration of the environmental assessment process. This function includes daily consultation, on an informal basis, with all federal agencies, state and local agencies, business, environmental organizations and private citizens regarding both statutory matters related to the National Environmental Policy (NEPA), and, even more frequently, the CEQ regulations which implement the procedural provisions of NEPA. The CEQ regulations are binding on all federal agencies, and we are frequently called upon to interpret them in specific situations, as well as to fulfill duties specifically assigned to CEQ in the regulations.

Under the CEQ regulations, each federal agency is required to promulgate its own NEPA procedures tailored to its own particular agency mission(s). The CEQ General Counsel's office works with each agency at the draft stage of such procedures or amendments to the procedures, to identify any potentential problems and areas of conflict. After the draft procedures are published and public comment is received, CEQ reviews the proposed final procedures prior to publication in the *Federal Register*, and determines whether they are consistent with the CEQ regulations. During FY 1984, CEQ reviewed amendments to NEPA procedures for the Department of the Interior, Corps of Engineers, National Oceanic and Atmospheric Administration, U.S. Postal Service, Federal Aviation Administration, Agriculture Research Service, and the Veterans Administration.

The Council conducted its annual survey of all NEPA cases litigated during calendar year 1983. This information, including the major causes of action, number of injunctions issued, and other information, will be printed in the 1984 Annual Report. CEQ also compiled data on all agency contacts for NEPA work and agencies with special expertise and jurisdiction by law in environmental areas.

The CEQ regulations which implement the procedural provisions of NEPA provide for the referral to CEQ of federal interagency disagreements concerning proposed major federal actions which might cause unsatisfactory environmental effects(40 C.F. R. 1504). Under this procedure, a federal agency may refer another agency's proposal to CEQ no later than twenty-five days after the final environmental impact statement has been made available to agencies and the public. In determining what environmental objections to the matter are appropriate to refer to CEQ, an agency is instructed to consider possible violations of national environmental standards or policies, severity geographical scope, duration, importance as precedent, and availability of environmentally preferable alternatives.

After receipt of a referral and the lead agency's response to CEQ and the referring agency, CEQ may:

(1) initiate discussions with the involved agencies with the objective of mediation;

(2) hold public meetings of hearings to obtain additional views and information;

(3) publish findings and recommendations;

(4) send the matter back to the agencies for further negotiation;

(5) determine that the issue is not of national importance and thus decline to proceed with the referral;

(6) or, when appropriate, submit the referral and response together with CEQ's recommendation to the President for action.

Although most NEPA problems are handled on a more informal basis, CEQ has had 21 formal referrals during its history.

During FY 1984, CEQ received a referral from the Advisory Council on Historic Preservation regarding a proposal to partially fund the 2.4 mile Presidential Parkway in Atlanta, Georgia. The Federal Highway Administration had the role of approving or disapproving the State of Georgia's application for federal aid under the Federal-aid urban system. At a public meeting held to discuss the referral, CEQ decided to address the issue of national importance in relation to this referral, and asked for written comments from the public on that issue. After reviewing the comments and a visit to the site, CEQ determined that the issue was not one of national importance and thus concluded the referral process.

In FY 1985, the Department of the Interior referred to CEQ the U.S. Army Corps of Engineer's proposed Wildlife Mitigation Feasibility Study for the Tennessee-Tombigbee Waterway. The Department of the Interior maintains that the proposed mitigation measures are inadequate to replace the losses caused by construction of the Tennessee-Tombigbee Waterway, and has recommended the acquisition of 95,000 acres of separable land as mitigation for wildlife damage.

CEQ has periodically published appendices to the NEPA regulations, which facilitate agency compliance and public participation in the environmental process. During FY 1984, CEQ updated and published appendices for the first time since 1980. With the assistance of the Department of the Interior, three appendices were compiled with information regarding (1) agency NEPA contacts; (2) agencies with jurisdiction by law or special expertise on environmental quality issues; and (3) agency offices for receiving and commenting on other agencies' environmental documents. With the funds received in the supplemental appropriation, CEQ was able to publish these documents in the Federal Register and distribute them to agencies and interested parties. The appendices should be useful to a wide variety of individuals, citizens groups, state and local governments and federal agencies who are involved in the NEPA process.

During FY 1984, CEQ spent much time studying the issue of "worst case analysis", which derives from the CEQ regulation dealing with "incomplete or unavailable information" in an environmental impact statement. The regulation requires preparation of a worst case analysis if (1) the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known, and the overall costs of obtaining it are exorbitant, or, if (2) the information relevant to adverse impacts is important to the decision and the means to obtain it are not known (40 C.F.R. 1502.22(b)). A series of lawsuits dealing with the application of the regulation to use of herbicides on federal forest land has generated a great deal of concern about the regulation. Questions have been raised as to the usefulness of "worst case analysis", the legal implications of the requirement, the type of analysis necessary to meet the requirement, and other significant issues. CEQ received a petition to amend 40 C.F.R. 1502.22 from the Pacific Legal Foundation, as well as numerous requests from federal agencies to initiate rulemaking regarding this regulation. CEQ has also received correspondence from persons who believe that the existing regulation is appropriate.

As a result of these concerns, CEQ published an Advance Notice of Proposed Rulemaking (ANPRM) in the Federal Register on December 31, 1984. The ANPRM solicits written responses to several questions. (See Appendix F).

Additionally, the General Counsel's Office responded to numerous requests for review and advice concerning specific NEPA problems, review of environmental documents, and possible approaches to future problems. These requests came most frequently from fedeal agencies, but also came from state and local agencies, professional consultants, attorneys, and private citizens. Such requests may involve close examination of a particular proposal and the environmental documentation associated with it. For example, during FY 1984, CEQ was asked by the Associate Deputy Administrator for Logistics for the Veterans Administration to review a proposal to partially fund construction of a state nursing home in Rifle, Colorado, because the site which had been selected was believed to be have been contaminated with low-level gamma radiation.

Additionally, CEQ receives numerous requests for information regarding the environmental assessment process, and for publications relating to this subject. Such requests come from both the public and private sector, and also officials of other nations.

The Council participated in several seminars and conferences regarding the environmental assessment process, including participation in a United Nations Environment Programme Conference, a U.S./Netherlands Seminar on Environmental Management, two conferences sponsored by the Environmental Protection Agency, and other public and professional forums.

c. Proposed FY 1986 Activities

In FY 1986, CEQ will continue to administer its NEPA regulations which govern the environmental impact statement process. Administration of these regulations will require detailed review and approval of agency procedures prior to publication in the Federal Register and continued oversight of NEPA implementation in all federal agencies. The Council is contacted daily on matters requiring legal interpretation related to NEPA and is considered the final authority on NEPA questions by federal agencies. Further, CEQ is contacted frequently by the public, Members of Congress, and state and local governments regarding NEPA issues. The Department of Justice asks the Council for advice and comments on NEPA litigation, and consults with the Council in preparing lawsuits for presentation to the Supreme Court.

CEQ will perform its unique survey of NEPA litigation, which reflects statistics on the number of NEPA lawsuits filed each year, the major causes of action, and the number of injunctions granted.

In order to improve its NEPA program, the Council plans to develop, publish and distribute a variety of informative documents which would be of use to agencies, institutions and individuals who are involved in the NEPA process. Examples include:

(a) An annotation of the CEQ NEPA regulations with case law, law review articles, and other relevant citations;

(b) A compilation and short analysis of state "little" NEPA statutes (the most current such work, published by CEQ, is from 1979 and is out of date); and

(c) A compendium of international environmental assessment law. (While there is some work on the subject, particularly in European countries, there does not appear to be a good, current overview of this rapidly developing issue around the world.)

CEQ also plans to identify and promote methods of implementing the environmental review process which are effective and efficient. For example, one such agency is proposing to implement a "one-stop" process for much, if not all, of their environmental review. CEQ is interested in tracking the progress of this system; it may well prove to add efficiency and reduce delay to the process.

2. ASSISTANCE IN IMPLEMENTATION OF THE NUCLEAR WASTE POLICY ACT

a. Program Description

The Nuclear Waste Policy Act (NWPA) (P.L. 97-425) requires the Council on Environmental Quality to consult with the Department of Energy as it develops guidelines for the recommendation of sites as nuclear waste repositories. That Act also provides for the formal review and comments of the Council on the environmental impact statements prepared in the evaluation of potential sites.

b. Program Accomplishments and Current Activities

The Council was involved in the implementation of the environmental review requirments of the Nuclear Waste Policy Act during FY 1984. CEQ assisted the Department of Energy in the implementation of a policy concerning the nature and extent of environmental review necessary to acquire federal land for pre-selection site characterization. The resulting document formed the basis for a section of the DOE Mission Plan issued this fiscal year. In addition, Council officials met with DOE policymakers on the content of environmental assessments and the Mission Plan for the program.

In early FY 1985, the Depatment of Energy issued for public comment the environmental assessments developed in the "characterization" phase for each of the candidate sites. The Department has asked CEQ to play the role of mediator should any disagreements arise between agencies over the environmental aspects of the assessments.

c. Proposed FY 1986 Activities

The Council will continue its statutory role under the Nuclear Waste Policy Act. The first environmental impact statement (EIS) for a nuclear waste repository site will be issued in FY 1986. The Council will review and comment upon this EIS. In addition, CEQ will attend the public hearings planned for this environmental review document.

3. INTERAGENCY TASK FORCE ON ACID PRECIPITATION

a. Program Description

CEQ/OEQ has important responsibilities for the coordination of environmental programs and activities affecting more than one agency. Accordingly, the agency participates in several interagency task forces and committees. Currently, CEQ/OEQ serves as the Executive Secretary for the Interagency Task Force on Acid Precipitation (ITFAP).

The Acid Precipitation Act of 1980 (Title VII of the Energy Security Act of 1980, P.L. 96-294) established the Interagency Task Force on Acid Precipitation to develop and implement a comprehensive National Acid Precipitation Assessment Program. The national program includes research, monitoring and assessment activities that emphasize the timely development of a firm scientific basis for decisionmaking. This program of policy-oriented research issues an annual report describing research progress and the current state of knowledge about acid precipitation and its implications.

b. Program Accomplishments and Current Activities

In the first quarter of FY 1984, a Cabinet Council Working Group on acid precipitation, chaired by a Member of CEQ, completed its policy options analysis and report. That effort culminated in a decision by the Administration to accelerate research under the National Acid Precipitation Assessment Program. Accordingly, the President's budget for FY 1985 proposed a doubling of the Interagency research effort.

In FY 1985, CEQ/OEQ continues to carry out the following responsibilities in its role as Executive Secretary of ITFAP:

-- facilitate policy coordination on this issue with the Joint Chairs Council, comprised of the heads of NAPAP's principal funding agencies, for the Administration;

-- oversee the activities of the Task Force staff housed at CEQ and facilitate the financial management of certain interagency tasks.

In particular, the ITFAP, during FY 1985, will establish through CEQ a standing external scientific advisory committee, to provide independent advice to the Task Force on the scientific quality and effectiveness of the federal research program. This initiative formally implements one of the recommendations of the Ad Hoc Committee to Review the National Acid Precipitation Assessment Program (the "Deutch Committee") in its December 1983 Report to the ITFAP.

c. Proposed FY 1986 Activities

CEQ/OEQ will continue to serve as the Executive Secretary of the Interagency Task Force on Acid Precipitation. A Member of the Council has been assigned responsibility for the conduct of CEQ's activities in this area. Administrative support to the ITFAP is also provided by CEQ.

4. COORDINATION AND CLEARANCE OF PROPOSED LEGISLATION

a. Program Description

CEQ/OEQ is asked by other executive agencies, Members of Congress, and the Office of Management and Budget for advice on draft legislation affecting the environment. Legislative clearance is a valuable mechanism for the implementation of consistent environmental policy and preservation of the spirit of NEPA.

b. Program Accomplishments and Current Activities

During FY 1984 and 1985, CEQ/OEQ has provided official comments upon 32 draft bills, enrolled bills, and testimony on proposed bills. This includes the proposed measures listed in Appendix E.

CEQ/OEQ has repeatedly opposed legislation which would provide for exemption from procedural requirements of NEPA.

Other legislative proposals were reviewed and determined to be consistent with CEQ/OEQ implementing statutes.

c. Proposed FY 1986 Activities

The agency will continue to comment on proposals for legislation which relate to the environment, presented by executive agencies, Members of Congress, and OMB. CEQ/OEQ will anticipate conflicts between proposed legislation and NEPA, and attempt an early resolution of the matters.

III. ENVIRONMENTAL DATA ACQUISITION AND ASSESSMENT

A. BASIC OBJECTIVES

In order to meet its statutory responsibilities, the agency's basic environmental data acquisition and assessment objectives are:

(1) To assist the Congress and other federal agencies in resolving problems associated with environmental monitoring, as identified in the 1980 interagency task force report, the 1983 and 1984 Congressional hearings, and other forums;

(2) To explore innovative ways for coordination of the numerous environmental monitoring programs of the federal agencies; and

(3) To inform the Congress, the President and the public concerning the changing state of the environment over the past several years.

B. ORGANIZATION AND RESOURCE REQUIREMENTS

Funds in Thousands of Dollars

	FY 1984 (Actual) FTE	 Funds	FY 1985 (Estimated) FTE	 Funds	FY 1986 (Estimated) FTE	 Funds	Difference (1985-1986) FTE	 Funds
Appropriation	3.5	$213	4.5	$255	3.5	$180	-1	-$75
Reappropriation				$ 60				

CEQ/OEQ proposes to allocate a total of 3.5 work years and $180,000 to achieve the environmental data acquisition and assessment objectives. This reduction in resource allocation reflects the termination of the CSIN and economic analysis programs. (This termination is explained later.)

The Council received a $600,000 Supplemental Appropriation in FY 1984 to conduct feasibility studies for a Water Resources Research Center and Information Clearinghouse. The total cost of this project was $241,885. Congress reappropriated $175,000 of the surplus funds from the Supplemental for certain Council activities, available through FY 1985. CEQ will use $60,000 of the reappropriated funds for its Federal Data and Monitoring Program, as explained below. These funds will be used to support the detailee of an employee to the Council and will not affect the agency FTE level.

In essence, the difference in funding between fiscal years 1985 and 1986 for Environmental Data Acquisition and Assessment is $60,000 from the Reappropriation for the detailee for the Federal Data and Monitoring Program.

The President's Budget Request for FY 1986 will support the level of activity and staff required for basic operations in this agency program area.

The program responsibilities in this area are primarily assumed by the OEQ technical and administrative staff. A Council Member is assigned to oversee the activities of the Chemical Substances Information Network and the environmental monitoring staff. The work effort is concentrated in technical assessment and administration.

C. PROGRAM RESPONSIBILITIES

1. IMPROVEMENT OF FEDERAL DATA AND MONITORING CAPABILITIES

a. Program Description

Under NEPA and the Environmental Quality Improvement Act, the agency is required to assemble, analyze, and interpret authoritative information regarding the status of the environment and documenting ecological developments. The Council uses this information to brief the President, the Executive Office, and the Congress about the condition of the environment. In keeping with this responsibility, CEQ prepares reports on various subjects, in addition to the Annual Report, describing data and information on many aspects of the environment.

b. Program Accomplishments and Current Activities

CEQ has a vital role as catalyst in the area of federal data and monitoring programs. Actual monitoring of environmental conditions and collection of data properly rests with the various line agencies. Of course, each line agency conducts environmental monitoring in a way consistent with its own mission and Congressional mandates. CEQ brings the agencies together to communicate what each is doing in areas of common interest, and utilizes the relevant information of the several agencies to produce a common document that reports on the condition of the environment.

Current CEQ activities have been focused upon the Interagency Toxic Substances Data Committee (ITSDC). Chaired jointly by the Chairman of CEQ and the Administrator of EPA or their designees, this committee was established to improve coordination in the generation, sharing and management of information about chemical substance life cycles and effects upon the environment.

In FY 1984, the Council began a new cycle of activity related to the improvement of environmental monitoring and data. A plan was developed to begin an interagency effort to update information about data sources that are available, to cooperatively develop and implement a series of work plans to bring about the resolution of known environmental monitoring problems, and to prepare an updated version of the Environmental Trends report. The interagency working group will be established in FY 1985. Early accomplishments are expected to be the identification of environmental indicators necessary for adequate reporting of environmental quality and environmental health, identification of important government and private sector sources for such information, and the initial organizatio of environmental trends information.

In addition, the Council has involvement, as requested, in Executive Office oversight reviews and studies of the environmental monitoring programs of various agencies for the purpose of assuring adequacy of environmental data for defined areas of need.

c. Proposed FY 1986 Activities

CEQ will continue to serve as the Co-Chair for the Interagency Toxic Substances Data Committee in FY 1986.

By the beginning of FY 1986, the Council expects to be well underway in its initiative to solve environmental monitoring problems. Emphasis will be placed on the identification and development of indicators of environmental quality for which standardized methods and coordinated data gathering can be implemented. Careful selection of key indicators can result in cost reductions for monitoring and increased cooperation among entities that monitor the indicators.

Select interagency work groups will be assembled to work on the solution of specific problems, such as the development of key indicators or the implementation of coordination mechanisms. As information sources are identified, they will be described in a format appropriate to the publication of a directory of environmental data sources. This will be an update of a source-book published in FY 1984 by CEQ and the Department of Energy. It is anticipated that subsequent revisions will be published by the private sector, using the format established under CEQ leadership.

During FY 1986, the Council also plans to complete and publish an update of a unique sourcebook entitled Environmental Trends. The Council had the central coordinating role in developing this publication and co-sponsored its initial publication in 1981. We anticipate revising and reissuing the report at five-year intervals, a statistically meaningful time for trends to develop. Through the use of maps and charts, the report is designed to portray quantitatively, yet simply and effectively for the lay reader, the current conditions and trends in the quality of our environment.

2. CHEMICAL SUBSTANCES INFORMATION NETWORK (CSIN)

a. Program Description

CEQ/OEQ is providing oversight and support for a pilot program mandated by the Toxic Substances Control Act. This project, the Chemical Substance Information Network (CSIN), has been funded and supported through interagency agreements with the Council/Office.

CSIN is a sophisticated switching network which offers efficient and effective access to on-line information resources containing data relevant to chemical substances and other scientific disciplines and subject matters. The purposes of CSIN are twofold: (1) to meet the growing chemical data and information requirements of industry, academia, federal and state government, public interest groups, and others, and (2) to reduce the burden on the private and public sector communities when responding to complex federal legislation oriented to chemical substances. Information accessible through CSIN provides data on chemical nomenclature, composition, toxicity, uses, health and environmental effects, and other aspects of the life cycle of materials as they move through society. Other agencies involved with the CSIN program include the Environmental Protection Agency (both in Washington, D.C. and in its regional offices), the Army Corps of Engineers, the National Library of Medicine, the Coast Guard, the Consumer Product Safety Commission, and the Department of Justice. Organizations which have had members trained on CSIN include the Library of Congress, the Environmental Law Institute, the Natural Resources Defense Council, the Clean Water Action Project, and the Conservation Foundation.

The technology which supports CSIN allows for the identification of duplicative efforts, and appropriate sharing of data and information in an among agencies of government as well as into other private and public sector organizations. The management technology further allows use of autonomous data banks without disrupting in any way their business or technical operations.

b. Program Accomplishments and Current Activities

During FY 1984, three new information systems (raising the total to 10 systems containing over 400 databases) have been interfaced and made available through CSIN. Direct connection, through CSIN, to a major communications network (GTE's Telenet) provides users' potential access to an essentially unlimited array of public and private information systems.

Over 160 individuals from 64 public and private organizations were trained on CSIN during FY 1984, bringing the total to 168 organizations and approximately 600 individuals. Charges were initiated for CSIN training and on-line use of CSIN. Negotiations were completed allowing an experimental, controlled link between Bell Canada's iNet and CSIN. In cooperation with the National Library of Medicine (NLM) and the Center for Disease Control (CDC), a demonstration micro-computer-based CSIN work-station was deployed for testing and evaluation by on-site coordinators responsible for hazardous waste spills and cleanups. The United States Geological Survey (USGS) proceeded with extensive integration of CSIN into the USGS/Water Resources Division's Distributed Information System (DIS).

The CSIN Program in FY 1985 has been severely curtailed by limited resources; thus will focus on: (1) shutdown of the central, mini-computer-based, CSIN service; (2) completion of a micro-computer-based CSIN workstation; (3) registration and distribution of both the mini-computer and micro-computer software packages; and (4) program termination by the end of FY 1985.

c. Proposed FY 1986 Activities

In FY 1986, CEQ/OEQ will monitor the distribution and sale of the two CSIN software packages through the National Technical Information Service (NTIS) of the Department of Commerce. All other activities will cease.

3. ECONOMIC ANALYSIS OF ENVIRONMENTAL PROGRAMS

a. Program Description

CEQ/OEQ has evaluated economic impacts of major federal environmental programs, analyzed the long-term interrelationships between the environmental and economic factors, and examined economic incentives to improve compliance with environmental control programs.

b. Program Accomplishments and Current Activities

In FY 1984 and 1985, CEQ/OEQ investigated the possible adverse economic impacts associated with environmental programs. A major effort of the OEQ staff has been to estimate the potential adverse economic effects of proposed acid rain legislation.

Work on acid rain has included: "The Cost of Acid Rain Legislation," which provided a compilation and analysis of major acid rain cost estimation study, "Acid Rain: Addressing the Issue", "Acid Rain: The Data and Monitoring Needs", and "Acid Rain: A Discussion of the Scientific and Policy Issues". These studies provided the basis for the development of a desk reference book on acid rain which was circulated to federal policymakers. This manual illustrates the state-of-the-art in the scientific underpinnings of causes, effects, and cost-effectiveness of mitigation efforts.

The Council has also examined the longer-term employment and other economic impacts of acid rain policies and has included an analysis of the relationship of demographic factors to economic incentives affecting environmental quality in its most recent Annual Report.

As another part of its economic activities, CEQ/OEQ developed and evaluated proposals for using market-based approaches in environmental quality management. In fiscal year 1984, the agency conducted a study of market-based approaches for controlling acid rain. This study indicates ways in which recent EPA air quality management reforms may be applied in the area of acid rain.

During FY 1984 CEQ, in conjunction with the Office of Policy Analysis of the Department of the Interior, commissioned five papers for a Technical Workshop on "Emissions Trading: A Major Regulatory Reform in Environmental Quality Management." The objectives of the technical workshop were to provide a forum to identify and assess the implications of emissions trading for the attainment of environmental quality management goals, the potential use of emissions trading for addressing acid deposition, and western coal policy.

The proceedings of this Technical Workshop will be available to interested and/or affected government agencies in FY 1985. They will describe emissions trading presently underway in federal agencies and elsewhere, identify specific opportunities where emissions trading and market-based approaches can improve the cost-effectiveness of environmental quality management and identify gaps within technical disciplines critical to the use of emissios trading as an incentive structure for environmental quality management. In addition, a publication summarizing the major findings of the Technical Workshop will be issued.

c. Proposed FY 1986 Activities

There are no activities planned for FY 1986.

UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Economic Development
Washington, D.C. 20230

MAR 8 1985

Honorable Robert Stafford
Chairman, Committee on Environment
 and Public Works
United States Senate
Washington, DC 20510

Dear Senator Stafford:

Attached is a copy of the statement you requested on the agency's program and budget for fiscal year 1986. I have also responded to the questions you forwarded.

If you have need for further information, please contact me.

Sincerely,

J. Bonnie Newman

J. Bonnie Newman
Assistant Secretary
for Economic Development

Attachment

STATEMENT BY THE ASSISTANT SECRETARY OF COMMERCE
FOR ECONOMIC DEVELOPMENT
J. BONNIE NEWMAN
THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

1985 RESCISSION PROPOSALS

The foundation of EDA's 1986 Budget is a 1985 rescission proposal of $203 million in funds previously appropriated. This rescission consists of $179 million of the $200 million appropriated for our regular economic development assistance programs in fiscal year 1985 and $24 million of the $26 million supplemental appropriation initiated by the Congress last year for special activities.

This proposal is anchored in our belief that sustained economic development is contingent upon the stability which will come only with a reduced federal deficit. We believe further that the most effective solutions to local development problems will result when the responsibility for community economic development assistance is transferred to the States and to local governments.

The 1986 Budget also proposes the rescission of EDA's 1985 loan guarantee authority in the amount of $150 million in federal liability. Just as there has been dramatic success in job creation as a result of President Reagan's policies, we must also rely on the private sector to provide credit assistance to businesses, which in turn will reduce even further the Nation's declining interest rates and inflation.

Lastly, consistent with the intent of the Federal Reduction Act of 1984, $120 thousand ($93 thousand in travel and $27 thousand in printing) in 1985 administrative funds is proposed for rescission.

REDUCTION-IN-FORCE

Congressional approval of the 1985 rescission proposals and the elimination of 1986 program funding as proposed in the President's Budget will result in a Reduction-in-Force of approximately 262 employees, including the 49 Economic Development Representatives effective September 27, 1985. All residual grant and loan functions and associated staff will then be consolidated in the Office of the Secretary. The Department will continue to monitor ongoing projects, collect debts owed to the Government, and provide the other administrative support necessary to ensure an orderly phase-out of EDA. For fiscal year 1986, this staff will total 138 positions and will require $14.5 million for salaries and related expenses.

MCDADE AMENDMENT

Other than the rescission proposals, no legislative initiatives are necessary to discontinue EDA programs. However, we will propose legislation to repeal the "McDade Amendment", which prohibits the sale of loans without the consent of the borrower. We believe that this prohibition hinders the efficient management of the Agency's loan portfolio and does not allow the most effective protection of the taxpayers' investment.

Questions and Answers

FY 86 Budget Questions

1. Please provide details of the phase-out plan for the Agency if EDA were to be terminated as of fiscal year 1986. What program responsibilities would remain and over what period of time?

The budget presented by the President contemplates an FY 1985 rescission of $179 million in EDA program funds. Upon approval of the rescission by the Congress, EDA would begin to formulate detailed plans for a major reduction-in-force (RIF) to reduce Agency staffing from its present level of 465 to a total staff of 138 by September 28, 1985. The budget justifications for FY 1986 show a distribution of these employees by major function. These figures were derived simply by prorating downward from the present staff level to the new level. These numbers do not represent the final post-RIF staffing distribution. We have initiated a function-by- function analysis to determine what the final distribution of the 138 remaining positions will be.

Immediately following the RIF, all these positions will be consolidated into the Department where all previously approved grants will be monitored to completion to assure that their original purposes are carried out. The Agency's loan and loan guarantee portfolio also will be administered at the Departmental level.

We expect that monitoring of technical assistance and planning grants would be completed in FY 1986 for the most part. Some public works projects would require monitoring for as long as four years after cessation of the EDA program. EDA loans have long terms (up to twenty-five years); it is impossible to state how long the portfolio might remain in existence.

If the rescission is not approved by the Congress, our plan is to implement the RIF in April, 1986. All activities would be carried out as planned under the rescission proposal but with a six-month delay in the implementation of the phase-out.

Questions and Answers

FY 1986 Budget Questions

2. If a program of urban enterprise zones is enacted, and if it works in meeting the needs of cities which have relied on EDA assistance, what program(s) would similarly serve rural areas in the event that EDA and other Federal rural development programs are discontinued?

The proposed Federal enterprise zone legislation is not limited to urban areas. Rather, the legislation calls for the creation of such zones in rural as well as urban areas. Furthermore, a number of states have already established their own enterprise zone programs, under which rural areas are eligible participants.

Finally, the Department of Housing and Urban Development sponsors a Small Cities Program within its Community Development Block Grant program. This program, which is administered by the states, can provide development assistance to some rural areas.

Questions and Answers

FY 1986 Budget Questions

3. How effective have EDA-supported economic development districts been? Do the districts have the capability to become self-sufficient without EDA support?

A number of evaluations of EDA-supported economic development districts have been conducted over the past 15 years, and each has concluded that such districts provide some useful economic development services to member governments.

We estimate that approximately half of the 275 districts funded by EDA receive sufficient support from other sources to continue operations without EDA funding.

Questions and Answers

FY 1986 Budget Questions

4. How successful historically has EDA been in collection on delinquent loans? By category, what amount of the loans are delinquent? When loans are liquidated, what percentage of the original loan amounts is currently recovered?

Table #1 provides detailed statistics on the final disposition of all loans and loan guarantees administered by EDA:

TABLE #1: APPROVED LOANS & GUARANTEES

	Active	Paid Off	Charged Off	Deobligated/ Undisbursed	Total Approved
PWEDA/ARA					
Direct:	377	572	93	54	1,096
Guaranteed:	96	109	80	1	286
Trade Acts of 1962 & 1974					
Direct:	161	82	97	15	355
Guaranteed:	41	24	34	4	103
Special Steel Loan Guarantee Program					
Guaranteed:	4	-	2	2	8
TOTAL:	679	787	306	76	1,848

Of the total approved loans and guarantes, 787 (or 43%) have been paid off in full, 306 (or 17%) have been charged off at some loss to the government and 679 or 37% are still active.

Table #2 provides detailed statistics on the active loans and guarantees in EDA's portfolio as of the end of fiscal year 1984 (September 30, 1984):

TABLE #2: ACTIVE LOANS AND GUARANTEES

	Current	Delinquent	Liquidation	Total Active
PWEDA/ARA				
Direct:	252	51	74	377
Guaranteed:	49	12	35	96
Trade Acts of 1962 & 1974				
Direct:	56	48	57	161
Guaranteed:	20	4	17	41
Special Steel Loan Guarantee Program				
Guaranteed:	2	-	2	4
TOTAL:	379	115	185	679

Of the 679 active loans and guarantees, 379 (or 56%) are current, 115 (or 17%) are delinquent and 185 (or 27%) are in liquidation.

Table #3 provides a breakdown by dollars of principal and interest outstanding for active direct loans.

TABLE #3: ACTIVE DIRECT LOAN BALANCES ($000)

	PWEDA/ARA	TRADE ACTS	TOTAL
Current:			
Principal	$192,250	$42,771	$235,021
Interest	1,536	199	1,735
Delinquent:			
Principal	3,584	2,047	5,631
Interest	1,303	839	2,142
Liquidation:			
Principal	206,479	42,367	248,846
Interest	20,391	7,414	27,805
Total:			
Principal	$402,313	$87,185	$489,498
Interest	23,230	8,452	31,682

Prior to fiscal year 1984, EDA estimated its average recovery on loans assigned to liquidation at 12¢ on the dollar. Due to increased attention to the liquidation portfolio, EDA achieved an estimated liquidation recovery of 30¢ on the dollar through cash receipts, note sales and collateral sales during fiscal year 1984. This figure is subject to final audit). EDA projects a recovery of 34¢ on the dollar for fiscal year 1985.

Questions and Answers

FY 1986 Budget Questions

5. Establishment of a Federal Credit Agency within the Treasury Department has been proposed by the Office of Management and Budget. In your view, would such a centralized system lead to improved collection procedures?

OMB has not shared with us the details of the proposed Federal Credit Agency which would be administered by the Treasury Department. However, if Treasury were able to hire an adequate, experienced and objective staff, it would improve collections. A staff trained in private sector debt collection would have no properietary interest in specific programs and would collect debts more expeditiously.

Questions and Answers

FY 1986 Budget Questions

6. At present, over 80 percent of the country is eligible for EDA assistance. In the past 5 years, what percentage of the country has actually received EDA assistance?

Year	Counties Receiving EDA Assistance	% US Counties	% US Population
1980	314	9.75	36.48
1981	269	8.35	32.81
1982	167	5.18	20.24
1983	320	9.93	34.11
1984	266	8.26	28.88

Note: The above percentages are based upon the actual obligations of EDA's public works program. We believe these percentages also represent the allocation of the Agency's total resources among urban and rural areas, since the public works program accounts for the greatest portion of our grant resources.

Questions and Answers

FY 1986 Budget Questions

7. For each of the past 10 years, what percentage of EDA assistance has gone to rural areas and small towns as opposed to urban areas? For fiscal years 1983 and 1984, please describe State-by-State the EDA funding provided under the major program categories.

Fiscal Year	% Urban	%Rural
1975	18.5	81.5
1976	19.1	80.9
1977	17.7	82.3
1978	33.2	66.8
1979	37.1	62.9
1980	52.1	47.9
1981	53.1	46.9
1982	42.2	57.8
1983	49.2	50.8
1984	41.8	58.2

Note: The above percentages are based upon the actual obligations of EDA's public works program. We believe these percentages also represent the allocation of the Agency's total resources among urban and rural areas, since the public works program accounts for the greatest portion of our grant resources.

U. S. DEPARTMENT OF COMMERCE
ECONOMIC DEVELOPMENT ADMINISTRATION
SUMMARY OF EDA APPROVED PROJECTS BY STATE, BY PROGRAM

FOR FISCAL YEAR END SEPTEMBER 30, 1984
($ AMOUNTS IN THOUSANDS)

	PUBLIC WORKS		JOBS			TECHNICAL ASSISTANCE		PLANNING GRANTS		ECON. ADJ.		STATE TOTALS	
	NO. PROJ.	AMOUNT	NO PROJ.	NON-PWIP	PWIP	NO. PROJ.	AMOUNT	NO. PROJ.	AMOUNT	NO. PROJ.	AMOUNT	NO. PROJ.	AMOUNT
ALABAMA	7	6642	1	482	0	5	240	12	523	2	1096	27	9084
ALASKA	3	673	0	0	0	1	15	15	467	3	2890	22	4044
ARIZONA	0	0	3	523	0	1	13	12	275	1	100	17	913
ARKANSAS	4	3059	3	878	139	3	74	15	600	1	750	26	4909
CALIFORNIA	13	11313	5	1334	1794	8	330	25	1005	2	850	53	16316
COLORADO	2	1130	0	0	0	2	65	8	345	2	1398	14	2938
CONNECTICUT	2	902	0	0	0	0	0	5	210	0	0	7	1112
DELAWARE	1	157	0	0	0	1	28	3	99	0	0	5	317
DIST. OF COLUMBIA	0	0	0	0	0	18	1878	2	65	0	0	20	1943
FLORIDA	3	1594	4	989	900	5	150	7	411	0	0	19	3643
GEORGIA	7	2800	2	347	0	7	718	22	1134	1	3190	39	8189
HAWAII	1	600	0	0	0	3	175	2	115	0	0	6	890
IDAHO	2	1072	1	0	321	2	117	21	576	4	800	31	2886
ILLINOIS	6	4027	3	0	1308	5	373	15	754	3	1500	31	7961
INDIANA	7	4857	3	301	438	4	158	15	720	1	75	30	6579
IOWA	1	500	1	300	0	2	93	7	252	1	200	12	1347
KANSAS	1	1000	0	0	0	0	0	9	369	0	0	10	1369
KENTUCKY	4	3811	2	0	1940	2	74	3	762	1	680	12	7267
LOUISIANA	5	2574	0	0	0	4	225	15	476	1	600	25	3875
MAINE	3	3700	1	545	0	3	104	7	351	3	1135	17	4836
MARYLAND	2	1900	1	500	0	3	213	4	205	2	575	12	3293
MASSACHUSETTS	3	2893	1	500	0	3	145	15	565	1	500	23	4603
MICHIGAN	7	2757	6	833	3423	5	334	20	945	4	2775	42	10967
MINNESOTA	4	1342	1	535	0	3	43	5	554	1	500	14	2974
MISSISSIPPI	6	4496	2	333	424	2	60	12	717	2	2750	24	8779
MISSOURI	2	660	2	184	1000	3	89	13	733	3	1160	23	3836
MONTANA	3	1350	0	0	0	0	0	11	460	0	0	14	1810
NEBRASKA	2	587	0	0	0	1	45	6	257	0	0	9	889
NEVADA	3	2793	0	0	0	2	95	4	180	1	341	10	3409
NEW HAMPSHIRE	2	884	0	0	0	1	50	2	85	0	0	5	1019
NEW JERSEY	3	1947	2	0	1135	4	150	9	378	1	1000	19	4610
NEW MEXICO	3	1466	1	720	0	2	140	19	618	0	0	25	2944
NEW YORK	11	6406	3	476	1116	6	210	23	1266	3	1100	46	10573
NORTH CAROLINA	3	1679	1	0	152	4	140	10	519	2	1340	20	3830
NORTH DAKOTA	3	1111	0	0	0	5	248	10	479	0	0	18	1838
OHIO	7	6281	2	900	471	4	88	18	725	2	950	31	9017
OKLAHOMA	3	1480	2	0	1080	3	140	15	583	0	0	23	3283
OREGON	5	1542	2	0	698	3	105	14	479	4	850	28	3674
PENNSYLVANIA	6	3626	3	900	1139	6	350	13	658	4	3300	32	9529
RHODE ISLAND	1	800	0	0	0	1	75	3	85	0	0	5	960
SOUTH CAROLINA	7	2932	2	0	1785	2	127	14	664	1	188	26	5696
SOUTH DAKOTA	2	1260	2	725	0	0	0	12	520	0	0	16	2505
TENNESSEE	8	3006	4	554	1084	6	268	16	784	2	980	34	6616
TEXAS	14	9343	4	900	1335	4	256	33	1218	1	500	56	13152
UTAH	3	1467	2	0	393	0	0	6	310	0	0	11	2170
VERMONT	2	519	1	500	0	0	0	3	140	1	85	7	1244
VIRGINIA	5	1882	2	0	813	2	130	9	459	0	0	18	3282
WASHINGTON	6	3579	3	1966	0	4	150	38	1131	5	755	56	7582
WEST VIRGINIA	5	2270	2	282	0	3	137	11	494	2	810	23	4002
WISCONSIN	7	3479	2	1276	0	2	53	11	683	0	0	22	5489
WYOMING	0	0	1	0	900	1	30	1	42	0	0	3	972
AMERICAN SAMOA	0	0	0	0	0	0	0	2	53	0	0	2	53
GUAM	0	0	0	0	0	0	0	1	40	0	0	1	40
NORTHERN MARIANAS	1	553	0	0	0	0	0	2	40	0	0	3	593
PUERTO RICO	4	3530	2	680	571	1	30	3	110	0	0	10	4911
TRUST TERRITORIES	0	0	0	0	0	0	0	0	0	0	0	0	0
VIRGIN ISLANDS	1	890	0	0	0	0	0	2	48	0	0	3	938
U.S. GENERAL	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTALS	311	139989	83	17367	22436	184	8456	813	35939	68	35496	1459	240677

7.

Summary of EDA Obligated Projects, by State, by Program
For Fiscal Year Ending September 30, 1983*

States	Public Works No. of projects	Public Works Amount ($000)	Emergency Jobs Act No. of projects	Emergency Jobs Act Non-PW/IP ($000)	Emergency Jobs Act PWIP ($000)	Technical Assistance No. of projects	Technical Assistance Amount ($000)	Planning Grants No. of projects	Planning Grants Amount ($000)	Economic Adjustment No. of projects	Economic Adjustment Amount ($000)	State Totals No. of projects	State Totals Amount ($000)
Alabama	9	6,807	11	2,899	2,740	2	125	18	426	1	1,878	41	13,953
Alaska	1	400	1	674	0	0	0	12	277	1	725	15	2,077
Arizona	0	0	2	1,801	0	1	50	24	340	0	0	27	2,191
Arkansas	2	3,309	5	144	681	2	50	18	544	1	80	28	4,822
California	11	6,484	17	6,475	4,404	7	559	40	1,202	5	4,461	80	22,886
Colorado	1	924	2	339	438	3	175	13	312	1	75	20	2,260
Connecticut	4	2,966	3	1,734	110	1	80	10	289	0	0	18	4,907
Delaware	0	0	1	800	0	0	0	4	87	0	0	5	887
District of Columbia	0	0	1	1,000	0	13	2,170	2	233	0	0	16	3,402
Florida	3	1,634	3	520	433	0	69	17	464	1	250	24	3,370
Georgia	7	3,436	2	0	476	4	499	42	1,139	0	250	55	5,780
Hawaii	1	288	1	0	330	1	150	2	36	1	75	6	879
Idaho	4	2,453	3	0	849	0	0	30	539	0	250	27	3,861
Illinois	6	4,216	9	2,475	3,146	2	125	18	553	0	0	35	10,514
Indiana	5	3,181	6	1,013	846	1	250	21	562	0	1,000	33	6,851
Iowa	2	901	2	0	777	2	49	14	348	0	0	20	2,075
Kansas	2	1,100	2	484	172	0	0	14	320	0	0	18	2,076
Kentucky	2	2,200	4	118	948	1	44	8	827	0	0	15	4,137
Louisiana	6	4,614	5	1,076	448	2	75	14	402	1	1,250	28	7,795
Maine	5	1,237	2	899	0	2	75	15	345	0	0	24	2,556
Maryland	0	0	3	1,186	254	3	135	6	200	0	0	12	1,784
Massachusetts	1	800	3	813	524	3	575	23	572	2	800	32	3,989
Michigan	12	6,152	21	4,533	3,440	2	131	27	810	4	1,398	66	16,464
Minnesota	3	2,799	2	0	1,909	3	180	18	802	1	147	27	5,837
Mississippi	5	1,309	4	1,300	584	1	147	23	702	1	1,175	34	4,987
Missouri	3	3,530	4	0	1,626	2	75	24	636	0	0	33	5,786
Montana	1	480	2	573	0	0	0	20	402	0	0	23	1,455
Nebraska	0	0	1	0	240	0	0	9	186	0	0	10	426
Nevada	4	2,669	1	0	396	1	35	3	133	1	561	10	3,794
New Hampshire	1	875	1	0	500	2	75	4	73	0	0	8	1,523
New Jersey	2	4,500	6	120	1,814	2	75	12	256	2	1,481	23	8,246
New Mexico	1	431	1	0	680	2	66	26	615	2	1,000	32	2,792
New York	11	8,942	7	6,066	0	3	250	36	1,103	6	4,850	62	21,211
North Carolina	6	4,184	6	1,325	867	1	120	21	543	1	21	37	6,700
North Dakota	1	415	1	175	0	1	46	20	479	0	0	23	1,115
Ohio	9	7,799	12	4,166	2,564	1	23	22	624	2	1,383	46	16,547
Oklahoma	0	691	2	500	821	3	126	22	586	0	0	27	2,727
Oregon	4	6,914	2	1,170	0	2	100	16	390	0	0	24	8,575
Pennsylvania	8	5,229	10	2,166	2,441	4	224	23	662	3	2,630	48	13,146
Rhode Island	0	0	1	511	0	0	0	4	87	1	600	6	1,198
South Carolina	3	1,833	6	792	1,560	1	120	36	677	0	0	38	4,981
South Dakota	0	0	0	0	0	0	0	22	519	0	0	22	519
Tennessee	5	2,499	6	1,136	1,006	1	11	26	701	5	3,226	45	8,684
Texas	8	8,183	10	3,408	1,877	4	184	30	983	0	0	61	12,734
Utah	1	740	1	395	0	0	0	10	386	1	300	13	1,803
Vermont	3	1,647	1	527	0	0	0	6	136	0	0	10	2,310
Virginia	3	3,110	2	0	464	1	125	17	800	0	380	28	4,430
Washington	7	2,734	3	1,690	699	4	180	30	1,000	2	660	56	6,753
West Virginia	3	3,004	2	343	335	0	0	10	475	2	540	26	4,887
Wisconsin	7	3,169	3	1,905	0	1	50	19	507	1	500	31	6,221
Wyoming	0	0	0	0	0	0	0	2	60	0	0	2	60
American Samoa	0	0	1	0	141	0	0	2	51	0	0	3	192
Guam	0	0	0	0	0	0	0	2	35	0	0	2	35
Northern Marianas	0	500	0	0	0	0	0	2	20	0	0	2	520
Puerto Rico	2	3,058	4	0	1,713	0	0	2	37	2	1,636	10	6,443
Trust Territories	0	0	0	0	0	0	0	0	0	0	0	0	0
Virgin Islands	0	0	1	1,000	0	0	0	2	41	0	0	3	1,041
U.S. General	0	0*	0	0	0	0	0	0	0	0	0	0	0
Totals	187	129,312	211	57,382	42,677	92	7,644	963	34,575	61	33,196	1,464	305,726

* Does not include projects funded under Title III, Section 304, of the Public Works and Economic Development Act.

Questions and Answers

FY 1986 Budget Questions

8. Please describe the purpose and scope of the EDA project audits currently being conducted by the Office of the Inspector General.

The Office of the Inspector General annually conducts an audit of a random sample of EDA projects to determine if the grantees have complied with the general and special terms and conditions of the grant. During the past few years the Inspector General has focused attention on three potential problems with grant assistance programs. First, an illegal change in the scope of work of the grant may have occurred. Second, a grant may have violated EDA's prohibitions on assisting in the relocation of firms from one area of the country to another. Third, the grantee may have used the EDA grant to replace other Federal or local funds which were available to support the grant project.

Questions and Answers

FY 1986 Budget Questions

9. Please give estimates on the amount of private investment leveraged by various categories of EDA grants over the past 5 years. How many jobs have been created and/or retained in that time with the help of EDA funds?

Planning, National Technical Assistance and Research programs are intended to play a catalytic role and provide a foundation for long-term economic development. They do not generally result in the immediate creation of new jobs or increased private investments.

Past evaluations of University Center and Regional Technical Assistance programs have reported an EDA cost per job of approximately $500. EDA has obligated $22 million on such projects over the past five years, which implies the creation or retention of approximately 45,000 jobs. The amount of private investment leveraged by these programs is estimated at $400 million. It should be noted that the assistance provided through these projects is often offered in conjunction with other activities, and thus must be considered as a contributing, not the sole, factor responsible for the job creation or private investment.

Under the Sudden and Severe Economic Dislocation program, EDA obligated $109 million during the past five years. This resulted in an estimated $870 million of private investment and the creation or retention of 24,000 jobs. Under the Long Term Economic Deterioration program, EDA obligated $107 million during the past five years. This resulted in an estimated $400 million of private investment and the creation or retention of 39,000 jobs.

Based on past program evaluations of Public Works projects, the number of jobs created or retained as a result of EDA's assistance during the past five years ranges from 160,000 to 256,000. Each EDA dollar invested in an industrial park facility has resulted in six (6) dollars in private investment. For non-industrial park projects, each EDA dollar invested has resulted in thirteen (13) dollars in private investment.

Questions and Answers

FY 1986 Budget Questions

10. What agency system exists to evaluate program performance and the effects of completed projects on communities?

Over the years, EDA has developed and implemented methodologies for evaluating the impacts of its programs. In addition to formal evaluation efforts by in-house analysts and private firms, program staff have carried out monitoring functions that included gathering information on the effects on communities of completed projects. As a result, a substantial body of information is available on the Uffects of EDA programs and projects.

We are developing and implementing a system to improve EDA's project monitoring by building in an evaluation component. Project impact information will be collected by Economic Development Representatives and other Agency staff and verified on a sample basis by outside organizations. This effort will complement other formal evaluation efforts.

Questions and Answers

FY 1986 Budget Questions

11. Is legislation required to terminate the Economic Development Administration? If so, please provide legislative language that would accomplish that purpose.

The agency's authorizing statute expired on September 30, 1981. Yet, EDA remains in operation through authority granted in appropriations bills and continuing resolutions. If legislation is used to terminate the agency, the attached material from Department of Commerce's Acting General Counsel should be used.

11.

GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

Honorable Robert T. Stafford
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Senator Stafford:

Enclosed is the legislative proposal to abolish the Economic Development Administration as you requested. Please note that we are providing you this proposal as a technical drafting service and we have not submitted it to the Office of Management and Budget for interagency review. Thus, the enclosed proposal does not reflect the position of the Department, nor has it been cleared by OMB as "in accord" with the program of the President.

If we can be of further assistance, please let us know.

Sincerely,

Richard H. Shay
Acting General Counsel

Enclosure

ECONOMIC DEVELOPMENT ADMINISTRATION
SUNSET ACT OF 1985

A bill to abolish the Economic Development Administration, to terminate the Public Works and Economic Development Act of 1965, and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Economic Development Administration Sunset Act of 1985".

Sec. 2. Termination and Authorization:

(a) The Public Works and Economic Development Act of 1965, as amended (42 U.S.C. §3121 *et seq.*), the Local Public Works Capital Development and Investment Act, as amended (42 U.S.C. §6701) and Title I of the Community Emergency Drought Relief Act of 1977 (42 U.S.C. §5784) shall cease to be in effect on October 1, 1985, PROVIDED, HOWEVER, THAT (1) the Secretary of Commerce is authorized to take such actions as would have been authorized under these Acts prior to the effective date of this Act as necessary to administer and liquidate existing grants, contracts, agreements, loans, obligations, debentures, or guarantees heretofore made by the Secretary or the Secretary's delegatee pursuant to the Acts; and (2) the Economic Development Revolving Fund established under section 203 of the Public Works and Ecomomic Development Act of 1965, as amended (42 U.S.C. §3143) shall continue in existence for the purpose of receipt of collections and repayments in connection with assistance previously extended under the Act and for the purpose of payment of all obligations and expenditures arising in connection therewith until such time as the Secretary of Commerce certifies to the Secretary of the Treasury that the Fund is no longer needed and at which time the monies remaining in the Fund and any future payments and collections received in connection with any loan or guarantee made under the Act shall be covered into the general fund of the Treasury as miscellaneous receipts.

(b) There are hereby authorized to be appropriated $14,522,000 in the fiscal year ending September 30, 1986 and such sums as may be necessary in fiscal years thereafter to provide for the orderly phase out of the activities of the Economic Development Administration.

Sec. 3. Reorganization: The Secretary of Commerce is authorized to establish within the Department such office or offices as necessary to wind up the affairs of the Economic Development Administration and to monitor, close out, and otherwise administratively deal with projects which have received assistance under Acts terminated by this Act or under other Acts, including assistance under the title II of the Trade Act of 1974 (19 U.S.C. §2341 et seq.).

Sec. 4. Conforming Amendments. Title 5, United States Code is amended by (1) reducing the number of Assistant Secretaries of Commerce in 5 U.S.C. §5315 by one; and (2) deleting "Administrator for Ecomomic Development" from 5 U.S.C. §5316.

Sec. 5. Effective Date. This Act shall be effective on October 1, 1985.

STATEMENT OF PURPOSE AND NEED

As part of its effort to reduce the Federal deficit, the Administration recommends that the Congress abolish the Economic Development Administration (EDA).

The legislative proposal would terminate EDA's programs under the Public Works and Economic Development Act of 1965 (42 U.S.C. § 3121 et seq.) ("PWEDA") as of October 1, 1985.* The Congress enacted PWEDA to assist various regions and communities in the country which were lagging behind the rest of the Nation and were suffering substantial and persistent unemployment. The programs authorized by the Act were intended to help such regions to help themselves in achieving lasting improvement and "enhance the domestic prosperity by the establishment of stable and diversified local economic and improved local conditions." 42 U.SC. § 3121. Since FY 1976, EDA has spent $9.4 billion under this Act and the Local Public Works Capital Development and Investment Act.

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* This Act is EDA's basic organic authority. The proposal would also terminate authority under two other Acts relating to economic development assistance which have not received appropriations since FY 1977 -- the Local Public Works Capital Development and Investment Act, 42 U.S.C. § 6701 et seq. and Title I of the Community Emergency Drought Relief Act of 1977, 42 U.S.C. § 5748.

Regardless of the rationale when the Act was passed in 1965, it is clear in 1985 that the surest, most efficient means the Federal government has to create jobs is to foster economic growth. The President's economic program has led to robust growth which created approximately 300,000 jobs per month in 1983 and 1984, and more than 6 million Americans are now employed than in January of 1981.

Experience has also shown that EDA's programs have proven to be inefficient and unreliable. The business development program, for example, in which EDA served as a lender of last resort or as a guarantor for firms in order to retain or create jobs in a distressed area, is currently experiencing a delinquency rate of 55% (as of September 30, 1984). The delinquency rate does not take into account amounts which have been written off over the years as uncollectible -- over $386 million worth of non-performing loans.

Further, there simply is no credible evidence that EDA programs are cost-effective in creating new jobs and capital investment. We believe that these programs at best simply shift jobs from one place to another and replace private capital with public funds.

The Administration remains convinced that the Federal government is ill-equipped to handle matters of predominantly local economic development. To the extent a Federal role is appropriate, we believe the Administration's enterprise zone proposal is a far more effective approach.

The budget request for FY 1986 seeks $14.522 million to allow for the orderly phase-out of the Agency. The Department will consolidate remaining functions related to project close-out and management of the business development loan and guarantee portfolio in the Office of the Secretary on October 1, 1985. Employees responsible for these functions would be transferred as necessary to provide adequate staff support.

Given the size of the deficit, it is imperative that we eliminate unnecessary programs. The most efficient way the Federal government can address the problem of unemployment is to ensure that it acts in fiscally-responsible way so as not to jeopardize continued economic growth. We simply cannot afford to fund programs of this kind. Accordingly, we urge the Congress to act favorably on this proposal as soon as possible.

Federal Emergency Management Agency
Washington, D.C. 20472

MAR 4 1985

Honorable Robert T. Stafford
Chairman, Committee on Environment
  and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your letter of February 25, 1985, to Mr. Louis O. Giuffrida, Director, Federal Emergency Management Agency. The enclosed material contains the information you requested concerning the FEMA budget as it relates to Disaster Assistance Programs authorized under P.L. 93-288.

Should you have any additional questions, please let me know. I look forward to working with you on this and any legislation amending the Disaster Relief Act.

Sincerely,

Samuel W Speck

Samuel W. Speck
Associate Director
State and Local Programs
  and Support

Enclosure

1. Q. Please discuss in detail the budget request for fiscal year 1986. How do these figures compare to the amounts actually appropriated in fiscal year 1985, and the amounts appropriated in fiscal year 1984?

A. The attached overview provides information on the budget request with reference to current funding. Also included are comments on agency initiatives and program priorities.

2. Q. Please discuss the rationale for the increases or decreases in the level of funding for fiscal year 1986. In areas where programs are increased, indicate whether these budgetary increases are tied to new agency initiatives or an increase in ongoing programs. Specify what the additional funds will provide. In the programs where reductions have been made, what specific areas of the program will be reduced or eliminated and what will be the effect of these reductions on operation of the program? If there is no change in funding from last year, what changes are made in program priorities?

A. The attached overview provides information on the budget request with reference to current funding. Also included are comments on agency initiatives and program priorities.

3. Q. What personnel increases or decreases are being proposed? How will this affect the agency's ability—including any additional time it will take—to carry out its program responsibilities?

A. None are being proposed.

4. Q. Please discuss any rescissions, deferrals or supplementals requested for FY 1985.

A. None are being requested.

5. Q. Please indicate if any legislative initiatives are necessary, or are being considered, to implement any part of the agency's fiscal 1986 budget request. If so, please describe these proposals and specify the budgetary impact of each provision.

A. The budget request assumes two legislative initiatives. The first would increase the Disaster Preparedness Improvement Grants authorized under the Act from the current limit of $25,000 to a new ceiling of $50,000. The second would restrict public assistance grants where reasonably available, adequate and necessary flood insurance could have compensated for the disaster damage. This would apply only to damage of public property which can be insured under the National Flood Insurance Program and which is located in a special flood hazard area. This initiative would involve no increase in costs to the Federal Government. Depending on the circumstances of disaster activity, savings could reach an estimated seven million dollars.

The administration is also considering submitting additional legislation that would address some of the features previously covered in S.2517. However, those provisions would not significantly affect the proposed budget.

6. Q. Please detail, for reductions taken in accordance with section 2901 of the Omnibus Deficit Reduction Act, and section 515, Experts and Consultants, of PL 93-473, The Continuing Resolution, the class where savings will be achieved. Provide detail on the funding levels of those spending categories in FY 1984, FY 1985, and FY 1986. Also, provide object class information, detailing where the FY 1986 10% cut in Administration would be achieved and what the funding levels were for those object classes for FY 84 and FY 85.

A. The agency has identified reductions in other program areas. No reductions have been taken in disaster assistance programs.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF
ACTIVITY OVERVIEW

° FY 1986 Proposed Funding

Historical experience provides a basis for estimating $225 million as an average level of disaster activity in a given year with possible additional demands on the President's Fund from previous disasters whose effects are still being addressed. For FY 1986 FEMA estimates a potential need for approximately $275 million in overall obligation from the President's Fund. Last year $100 million was requested in order to insure an adequate balance in the President's Fund. Based on obligations and expected demand, $194 million is being requested this year. This will insure a level of budget authority sufficient to support moderate disaster activity short of a cataclysmic event.

In addition, FEMA requests $6.400 million in salaries and expenses authority for Disaster Relief.

° FEMA's FY 1985 Appropriation

Congress appropriated the full $100 million as requested.

° FY 1986 Program Changes and New Initiatives

Assistance to families, individuals, and public entities will benefit from full implementation of several broad management improvement initiatives that are now being developed and tested. The three most far-reaching initiatives are Project Delta, the new Disaster Response Evaluation System (DRES), and the development of an integrated, comprehensive ADP system for all elements of Disaster Assistance Programs.

° Project Delta is an interagency effort, headed by FEMA, to improve the delivery of assistance to individuals affected by disasters. Participants include the American Red Cross and the U.S. Small Business Administration. Project Delta objectives are, improved service to the victim, improved economy and efficiency of administration, overall reduction in paperwork burden, and reduction in the potential for duplication of benefits. This effort has already identified and led to initial testing of significant improvements. In 1984 the major accomplishments were: development of new procedures for streamlining the processing of applicants in Disaster Assistance Centers, and several field tests of these procedures; and development and field testing of an automated dupplication of benefits system. Three Federal disaster aid programs (Temporary Housing Assistance, Individual and Family Grants, and the Small Business Administration's Disaster Loan Program) have been combined into a single application process. The tests have shown conclusively that paperwork requirements as well as processing time and costs have been significantly reduced.

During 1985 there will be continued field tests of revised DAC forms and procedures in a wider range of circumstances (dependent on disaster activity) and thorough training of permanent and temporary personnel who will administer assistance under these procedures. In addition, automated support systems will be improved and deployed in field tests as appropriate. In 1986, FEMA expects to have full implementation of these improvements as standard operating procedures.

° The Disaster Response Evaluation System (DRES) will realize FEMA's goal of providing an ongoing measure of the efficiency and effectiveness of disaster programs and related functions with concommitant identification of further ways to improve the delivery of assistance and services. The DRES will apply to both individual and public assistance programs. Development of the plan and initial field tests took place in 1984. Based on that activity, a final report on system design was prepared. Implementation of the system has begun with training of staff on DRES procedures. In 1986 program elements will complete the development of and implement ongoing performance standards as well as a performance monitoring system for their particular program components.

° Computer support systems offer the potential for great improvements in providing assistance in a more timely manner. In order to realize better that potential, to eliminate duplicative elements in current systems, to bring less efficient systems up to date, and to provide crucial ADP support in areas inadequately served or not served at all by such capability, in 1984 FEMA began work on identifying comprehensive improvements to ADP systems affecting Disaster Assistance Programs. During 1984 several interim system enhancements were developed for existing systems. In 1985 these will be expanded and support will be further improved by leasing of better equipment for field offices that will enable full-screen data processing functions. Additional interim functions which will improve operating efficiency and quality are being developed for both public and individual assistance areas.

The major initiative being pursued is development of a comprehensive data-base structured system that will be more cost-effective than current separate processing functions and also provide stand-alone operating capability for field offices. Initial systems analysis and preparatory activities are now underway. Systems development will be accomplished by contract using the Fund in 1986. The integrated system will carry through all functional enhancements referenced above for the separate assistance program modules.

° FY 1986 Anticipated Recision and/or Deferrals: None.

° Economic Assumptions and Spendout Rate

FEMA is projecting approximate outlays of $225 million up to $275 million for FY 1985 and FY 1986. These projections are based on the last 10 years' average of disaster outlay activity as well as forecasts for new disaster declarations.

All estimates for the Disaster Relief Fund are based on historical activity. As such the estimates are expressed in constant dollars. By budget convention, no economic factors are used in arriving at these figures.

° Outyear Projections

- Funding levels: FEMA is currently forecasting future budget requests of $275,000,000 annually.

Program costs are a function of the number, frequency and magnitude of disasters occurring in a given year. There will be continuing and expanded activity in hazard mitigation as FEMA works toward reducing disaster damage and losses. Concurrently, FEMA will strive to improve its criteria, policies and procedures for disaster relief and recovery programs with a goal of providing Federal aid on a more timely, efficient and effective basis.

SALARIES AND EXPENSES

DISASTER RELIEF ADMINISTRATION

FISCAL YEAR	FTE WORK YEARS	APPROPRIATIONS REQUEST	AVERAGE GRADE	AVERAGE SALARY
1984	144	$6,332,000	11	$36,013
1985	144	6,638,000	11	36,604
1986	144	6,400,000	11	35,152

DISASTER FUND
($000)

Fiscal Year	Request	Supplemental Request	Appropriation	Obligations	Carryover
1974	100,000	300,000 32,600	432,600	374,827	196,360
1975	100,000	100,000	200,000	192,020	204,340
1976	150,000	-0-	150,000	242,725	111,615
Trans Qtr.	37,500	-0-	37,500	83,301	65,814
1977	100,000	200,000	300,000	363,695	4,165
1978	150,000	150,000 150,000	440,716	442,947	6,280
1979	200,000	200,000	386,772	373,365	19,687
1980	193,600	870,000	1,063,600	849,095	234,192
1981	375,570	-0-	358,449	228,964	363,677
1982	400,000	-0-	301,694	115,114	527,984
1983	325,000	-0-	130,000	245,231	593,494
1984	-0-	-0-	-0-	296,420	368,494 1/
1985	100,000	-0-	100,000		
1986	194,000				
TOTALS			$3,901,331	$3,807,704	$2,696,102
AVERAGES			300,102	317,309	224,675

1/ Includes an additional $55,187 recovery of prior year obligations.

REQUESTS FOR FEDERAL DISASTER ASSISTANCE
UNDER PL 93-288

April 1, 1974 to September 30, 1985

Requested by the States		Declared Major Disaster	Declared Emergencies	Fire Suppression Grants	Denials	Amendments
Major Disaster:	531	308	17	---	198	3
Emergencies:	129	---	74	---	54	1
Fire Suppression Grants:	58	---	---	31	27	---
TOTALS:	718	308	91	31	279	4

COMMENTS: Of the 531 requests for major disaster declarations, 58 percent resulted in a major disaster being declared.

If the requests for major disasters and emergencies are combined, there were 660 requests and 399 declarations -- thus, 60 percent of the States' requests resulted in a Presidential declaration.

MAJOR DISASTER DECLARATIONS MADE UNDER PL 93-288

April 1, 1974 to September 30, 1985

	NUMBER	PERCENT	
Severe Storms and Flooding	188	61	
Tornadoes	45	15	
Tornadoes and Flooding	25	8	
Hurricanes and Typhoons	18	6	
Severe Winter Weather	15	5	
Levee or dam failure	3	1	
Earthquake	4	1	
Volcanic eruption	2	—	
Timber fire	2	—	3
Urban fire	2	—	
Drought	1	—	
Landslide	2	—	
Sewer explosion	1	—	
TOTAL	308	100%	

DEPARTMENT OF HEALTH & HUMAN SERVICES
Public Health Service
Washington DC 20201

The Honorable Robert T. Stafford
Chairman
Committee on Environment and
  Public Works
United States Senate
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your February 25 letter requesting a statement for the record regarding this Department's budget for programs within your Committee's jurisdiction. The only Department program which falls in that category is the Agency for Toxic Substances and Diseases Registry (ATSDR) which administers the health related activities under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) ("Superfund").

We have enclosed a description of the President's FY 1986 budget submission and addressed the questions in the letter. As you know, the ATSDR receives its funding from the Environmental Protection Agency budget.

A copy of this letter is also being sent to Senator Bentsen. If we can be of further assistance, please let us know.

Sincerely,

James O. Mason

James O. Mason, M.D., Dr.P.H.
Acting Assistant Secretary for Health

Enclosure

DEPARTMENT OF HEALTH AND HUMAN SERVICES
AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY
Comprehensive Environmental Response Compensation and Liability Act of 1980
ACTIVITIES

The 1986 budget request for the Department of Health and Human Services (DHHS) Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) health related activities is $14,620,000. This request is the same as the fiscal year 1985 funding level. In fiscal year 1984, the Congress appropriated $5,000,000 for DHHS CERCLA activities.

The 1986 budget request includes $2,628,000 for site-specific health related support and advice to EPA on Superfund sites. Other activities supported by this part of the budget include the coordination of CERCLA health-related activities and the provision of support to the Agency for Toxic Substances and Disease Registry. This represents no change from the amount budgeted for this activity in 1985; in 1984, $1,233,000 was budgeted for this activity.

The provision of health related support for CERCLA emergency and immediate response actions is a second major DHHS Superfund activity. The 1986 budget includes $661,000 for this activity. This represents no change from the amount appropriated in 1985; in 1984, $170,000 was budgeted for this activity.

Budget authority in the amount of $4,791,000 is requested for health surveys and investigations. Activities in this program area include the development of site specific health study protocols, the development of standard laboratory tests, pilot testing and studies at multiple sites with similar toxic contamination, and implementation of general or multiple site health studies. This represents no change from the amount appropriated in 1985; in 1984, $1,099,000 was budgeted for this activity.

The 1986 budget request includes $840,000 for worker health and safety activities. This amount, which is equal to the 1985 budget, will permit us to continue the implementing of the worker protection provisions of CERCLA. $660,000 was budgeted for this activity in 1984. Activities include field testing of worker protective equipment, development and publication of worker protection guidelines, and the provision of training for federal, State, and local government employees involved in the cleanup of Superfund sites.

Budget authority in the amount of $5,700,000 is requested for chemical testing and enhancement of toxicological data bases. Activities include the establishment and maintenance of an up-to-date data base on the health effects of toxic substances that is easily understood and accessible to it users and the expansion of our knowledge about the relationship between toxic substances and illness through toxicological testing. This represents no change from the amount appropriated in 1985; $1,838,000 was budgeted for this activity in 1984.

An increase of 12 full-time equivalents (FTEs) in personnel resources is requested in 1986. In Fiscal Year 1984, 47 FTEs were allocated for DHHS CERCLA related activities. This has been increased to 89 for the current fiscal year. The 1986 request is 101 FTEs.

The request for FTEs is based on the requirements of the present law and on the actual increases in consultative services, epidemiologic and toxicologic studies, enlarging of data bases, and our other activities. The increase in FTEs is required to effectively meet this increased workload. It reflects the number of persons needed to carry out essential in-house work that should be done by Federal employees as well as the number of persons needed to monitor cooperative agreements and contracts. The 101 FTEs will insure that the work remains scientifically credible.

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

OFFICE OF
THE ADMINISTRATOR

March 14, 1985
IN REPLY REFER TO: HCC-10

The Honorable Robert T. Stafford
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your letter of February 25, 1985, cosigned by Senator Lloyd Bentsen, asking that we submit written testimony on the Fiscal Year 1986 Budget Estimate of the Federal Highway Administration and respond to questions for the record in writing. Enclosed are our responses to your letter. Please contact me if I can be of any further assistance.

An identical letter is being sent to Senator Bentsen.

Sincerely yours,

Ray Barnhart
R. A. Barnhart
Federal Highway Administrator

Enclosures

Public Works Question 1
HFS-10
March 4, 1985

Question No. 1 Please discuss in detail the budget request for fiscal year 1986. How do these figures compare to the amounts actually appropriated in fiscal year 1985, and the amounts appropriated in fiscal year 1984?

Answer Attached is a comprehensive overview of the FHWA FY 1986 budget and its relationship with prior years.

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

INTRODUCTION

The F.Y. 1986 estimates for the Federal Highway Administration budget are based on the "Surface Transportation Assistance Act of 1982"-1982 STA Act (P.L. 97-424) which is the single most important piece of highway legislation enacted in many years. This act increased motor fuels tax for the first time since 1959 and utilized these additional revenues to the Highway Trust Fund to authorize significantly higher program levels in the various highway construction activities as well as to make authority available for capital mass transit projects.

In the sections of the budget which follow this introduction, individual appropriation accounts are discussed and justified in tabular and narrative form. A summary table of requirements is included as a part of the introduction to aid in giving perspective to the Federal Highway Administration's total budget estimate for F.Y. 1986.

Highlighted below are some specific elements of particular importance in reviewing and considering the various requests.

1. Magnitude of the Estimate

   Program level (obligations) are the most significant financial indicator of program action and direction being proposed for the budget year.

   In total, an obligation level of $14.313 billion is expected for all programs in F.Y. 1986. This compares with a $14.441 billion dollar level in F.Y. 1985, and $13.259 billion dollar level in F.Y. 1984.

   The Federal-aid highways account is by far the largest single factor affecting FHWA's budget estimates. For F.Y. 1986 obligations are estimated at $14.240 billion. This is the same obligation level as F.Y. 1985 and is consistent with the overall budget strategy of maintaining many programs in F.Y. 1986 at F.Y. 1985 level. The F.Y. 1984 obligations for this program were $13.047 billion.

   Outlays, although not a direct indicator of program progress, are the primary factor in considering budget deficits and economic forecasts. It is estimated that FHWA outlays will approximate $13.736 billion in F.Y. 1986 compared to actual F.Y. 1984 and estimated F.Y. 1985 of $10.569 million and $13.110 billion, respectively.

   Liquidating cash requirements for Federal-aid highways in F.Y. 1986 are estimated at $13.836 billion compared to F.Y. 1984 and F.Y. 1985 amounts of $11.600 billion and $12.800 billion, respectively. FHWA is also requesting an F.Y. 1986 $9 million liquidating cash appropriation for the Highway-Related Safety Grants program.

2. Federal-Aid Highways-Limitations/Appropriation Language

Obligation Limitation

An F.Y. 1986 obligation limitation of $13.250 billion is proposed which is the same amount as the limitation currently enacted for F.Y. 1985 in the F.Y. 1985 Appropriations Act.

Appropriation Language/General Provision

The budget proposes that the following points pertaining to Federal-aid highways be contained in the F.Y. 1986 appropriation act.

(1) As noted above, obligations for all programs would be limited to $13.250 billion, exempting funds for Emergency Relief and Minimum Allocation projects, (2) distribution of the obligation limitation to the States by a formula based upon both apportionments and allocations; (3) for the first quarter of F.Y. 1986, no State can obligate more than 40% of its share of limitation, and the share of obligations by all the States cannot be more than 25% of the National obligation limitation; (4) a provision to prevent lapse of non-Interstate authority; (5) redistribution of unobligated limitation after August 1, 1986, with priority giver to States having large unobligated balances of apportioned funds and to States which have experienced substantial proportional reductions in their apportionments and allocations because of statutory changes in certain recent highway legislation; and (6) a provision excluding administrative expenses and Federal lands highways from the distribution.

A general provision for F.Y. 1986 is being proposed to permit funding of both highway and mass transit projects within the Interstate highway substitute authority of $725 million. Legislation will also be submitted to effect this change.

3. Personnel Resources

The personnel resources subject to ceiling contained in the budget are summarized as follows:

	1985	1986
Positions	3,406	3,366
End-of-Year Employment	3,303	3,221
Full-Time Equivalent Workyears	3,561	3,488

4. Deficit Reduction Act

Section 2901 of the Deficit Reduction Act of 1984 (P.L. 98-369) requires Executive Branch agencies to achieve savings in specific spending categories (i.e. Motor Vehicles; Travel and Transportation; Public Affairs; Publishing, Printing, etc.; and Consultant Services). Total savings in F.Y. 1985 for FHWA are $164 thousands and for funds subject to rescission and other savings for funds not subject to rescission. As a result of this act, FHWA is submitting two F.Y. 1985 rescission messages (Motor Carrier Safety reduction of $164 thousand in budget authority and General Operating Expenses, a reduction of $2.155 million in limitation). The budget schedules for the rescission are shown under separate tab in this budget.

Additionally, to achieve full savings required under the act, FHWA will achieve savings in miscellaneous trust funds and operating expenses in Federal-aid Highways. The object class schedules for these accounts have been adjusted accordingly.

5. Other Highlights

-- $13.639 million for the on-going Motor Carrier Safety program to provide for program operations and contract research and development. The decrease of $427 thousand from the F.Y. 1985 appropriation results primarily from a 10% reduction in administrative expenses below the FY 1985 level, a 5 percent reduction in employees' salaries effective January 1986, and additional savings due to management initiatives. An increase of 12 positions associated with monitoring and enforcing hazardous material regulations is requested.

-- A limitation of $199.467 million on General Operating Expenses (GOE) in F.Y. 1986 compared to $204.452 million in F.Y. 1985. This decrease of $4.985 million in limitation results primarily from a 10 percent reduction in administrative expenses below the F.Y. 1985 level, a 5 percent reduction in employees' salaries effective January 1986, and additional savings due to management initiatives.

6. Consulting Service and Working Capital Fund

Section 318(a) of P.L. 97-102, the F.Y. 1982 Department of Transportation Appropriations Act, requires that each Federal agency identify in its Budget Estimate consulting services amounts by account, and provide narrative justification. Inasmuch as FHWA employs no consultants or contracts for any such services, within the meaning of Section 318, our F.Y. 1986 estimates contain no funds for consulting services. (F.Y. 1985 savings for consultants under Section 2901 result from a broader definition of that term utilized by the Cabinet Council on Management and Administration-CCMA, which is contained in OMB Bulletin 84-17). The House Report for P.L. 97-102, the F.Y. 1982 DOT Appropriations Act, directed that Budget Estimates include amounts for payment to the Office of the Secretary Working Capital Fund. In F.Y. 1986, $9.581 million from the Limitation on General Operating Expenses will finance services provided through the Office of the Secretary Working Capital Fund.

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

SUMMARY OF REQUIREMENTS
F.Y. 1984, F.Y. 1985 and F.Y. 1986
(dollars in thousands)
(Personnel All Positions and FTE Subject to Ceiling)

	F.Y. 1984 Actual	F.Y. 1985 Estimate	F.Y. 1986 Estimate
LIMITATION ON GENERAL OPERATING EXPENSES			
Limitation	(201,700)	(204,452)	(199,467)
Positions	2,769	2,673	2,629
Full-time equivalents	2,739	2,748	2,704
MOTOR CARRIER SAFETY			
Budget Authority (Appropriation)	13,020	14,066	13,639
Obligations	12,449	14,447	13,639
Outlays	12,799	14,218	12,690
Positions	271	271	283
Full-time equivalents	252	273	279
HIGHWAY SAFETY RESEARCH AND DEVELOPMENT			
Budget Authority (Appropriation)	8,500	8,500	8,500
Obligations	8,450	8,676	8,500
Outlays	8,422	9,214	6,785
AUTO-PEDESTRIAN SEPARATION DEMONSTRATION			
Budget Authority (Appropriation)	...	1,750	...
Obligations	...	1,750	...
Outlays	...	350	560
HIGHWAY-RELATED SAFETY GRANTS			
Contract Authority	9,802	10,000	10,000
Obligations	9,802	10,000	10,000
Outlays	12,169	10,530	11,544
Liquidating Cash	9,738	5,000	9,000
RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS (Sec. 163) 18 CITIES			
Budget Authority (Appropriation)	15,000	15,000	...
Obligations	14,097	17,492	17,492
Outlays	17,084	16,695	18,993
HIGHWAY SAFETY SEPARATION DEMONSTRATION			
Budget Authority (Appropriation)	...	12,000	...
Obligations	...	12,000	...
Outlays	...	2,400	3,840

	F.Y. 1984 Actual	F.Y. 1985 Estimate	F.Y. 1986 Estimate
ACCESS TO ... LAKES			
Budget Authority (Appropriation)	4,270	5,000	...
Obligations	11,544	11,684	...
Outlays	13,619	8,003	7,988
WASTE ISOLATION PILOT PROJECT			
Budget Authority (Appropriation)	5,800	16,400	...
Obligations	5,800	16,400	...
Outlays	32	5,587	6,978
FEDERAL-AID HIGHWAYS (LIQUIDATION OF CONTRACT AUTHORIZATION)			
Contract Authority	13,785,387	14,838,423	15,311,096
Obligations	13,046,764	14,240,000	14,240,000
Outlays	10,226,764	12,791,000	13,457,000
Liquidating Cash	11,600,000	12,800,000	13,836,000
Positions	220	260	262
Full-time equivalents	305	306	308
RIGHT-OF-WAY REVOLVING FUND (LIQUIDATION OF CONTRACT AUTHORIZATION)			
Obligations	25,576	...	...
Outlays	-17,803	...	...
Loan Limitation	(30,000)	(50,000)	(50,000)
MISCELLANEOUS HIGHWAY TRUST FUND			
Budget Authority (Appropriation)	...	...	...
Obligations	445	912	500
Outlays	1,433	3,848	3,126
MISCELLANEOUS APPROPRIATIONS			
Budget Authority (Appropriation)	1,000	...	...
Obligations	110,101	79,972	...
Outlays	284,791	218,915	181,713
MOTOR CARRIER SAFETY GRANTS			
Budget Authority	8,000	14,000	14,000
Obligations	7,132	14,863	14,000
Outlays	1,671	18,842	14,000
INTERMODAL URBAN DEMONSTRATION PROGRAM			
Budget Authority	...	2,750	...
Obligations	...	2,750	...
Outlays	114	950	1,180

	F.Y. 1984 Actual	F.Y. 1985 Estimate	F.Y. 1986 Estimate
MISCELLANEOUS TRUST FUNDS			
Budget Authority (Appropriation)	6,800	8,820	8,655
Obligations	6,188	10,417	8,655
Outlays	7,414	9,130	8,875
Liquidating Cash	113	846	...
Positions	36	38	38
Full-time equivalents	19	16	16
TRUST FUND SHARE OF OTHER HIGHWAY PROGRAMS			
Budget Authority	...	...	...
Obligations	164	131	...
Outlays	344	629	494
Grand Total - Federal Highway Administration			
Contract/Budget Authority	13,857,579	14,946,709	15,365,890
Obligations	13,258,512	14,441,499	14,312,786
Outlays	10,568,853	13,110,311	13,735,766
Liquidating Cash	11,609,851	12,805,846	13,845,000
Positions:			
Direct	3,296	3,242	3,212
Financed from transfer accounts and reimbursable program	204	164	154
Total Positions	3,500	3,406	3,366
Full-Time Equivalents:			
Direct	3,315	3,343	3,307
Financed from transfer accounts and reimbursable program	245	218	181
Total Full-time equivalents	3,560	3,561	3,488
Deficit Reduction Act and Other Rescission			
Motor Carrier Safety			
Budget Authority	...	-164	...
Obligations	...	-164	...
Outlays	...	-156	-8
General Operating Expenses			
Limitation	...	(-2,155)	...
Federal-Aid Highway			
Contract Authority	...	...	-100,000
Net of Rescissions			
Contract/Budget Authority	13,857,579	14,946,545	15,265,890
Obligations	13,258,512	14,441,335	14,312,786
Outlays	10,568,853	13,110,155	13,735,758
Liquidating Cash	11,609,851	12,805,846	13,845,000

	F.Y. 1984 Actual	F.Y. 1985 Estimate	F.Y. 1986 Estimate
Positions:			
Direct	3,296	3,242	3,212
Finance from transfer accounts and Reimbursable Program	204	164	154
Total Positions	3,500	3,406	3,366
Full-Time Equivalent			
Direct	3,315	3,343	3,307
Financed from transfer accounts and reimbursable program	245	218	181
Total Full-Time Equivalent	3,560	3,561	3,488

Public Works Question 2
HFS-10
March 5, 1985

Question: Please discuss the rationale for the increases or decreases in the level of funding for fiscal year 1986. In areas where programs are increased, indicate whether these budgetary increases are tied to new agency initiatives or an increase in ongoing programs. Specify what the additional funds will provide. In the programs where reductions have been made, what specific areas of the program will be reduced or eliminated and what will be the effect of these reductions on operation of the program? If there is no change in funding from last year, what changes are made in program priorities?

Answer: The Federal Highway Budget for FY 1986 is not significantly different than FY 1985. There are no new programs being proposed nor any increases over FY 1985 being requested.

Specifically, the Federal Aid program which accounts for 99 percent of this agency is being held at exactly the same level as in FY 1985. Federal Highway has not requested FY 1986 appropriations for accounts which were unsolicited but appropriated in FY 1985 such as: Auto Pedestrian Separation Demonstration, Highway Safety Separation, Waste Isolation Pilot Projects and Intermodal Urban Demonstration Program. FHWA feels that these programs are not in line with the Administration's goal of reducing Federal expenditures and should be covered under already existing programs.

Other programs are holding the line in FY 1986 over FY 1985 in order to comply with cost reduction initiatives. However, many programs will be completed in FY 1985 depleting existing unobligated balances which have been left over from previous authorizations.

Public Works Question 3
HFS-10
March 14, 1985

Question No. 3 What personnel increases or decreases are being proposed? How will this affect the agency's ability -- including any additional time it will take -- to carry out its program responsibilities?

Answer FHWA's full-time equivalent workyears (FTE) would decrease by 73 from 3,561 in FY 1985 to 3,488 in FY 1986.

The changes in personnel from FY 1985 to FY 1986 will not significantly impact FHWA's ability to administer the Federal-aid highway program.

The decreases are associated with the elimination of the Northeast Corridor Program (FHWA currently performs work for the Federal Railroad Administration on an allocation basis) together with management savings related to OMB Circular A-76 reviews and suggestions made in the Grace Commission reports. The increase for BMCS of 6 full-time equivalents is associated with the need for increased monitoring and enforcement activity resulting from the increased movement of hazardous materials in the highway mode.

Public Works Question 4
HFS-10
March 5, 1985

Question No. 4 Please discuss any recissions, deferrals or supplementals requested for FY 1985.

Answer For FY 1985 we have submitted in accordance with Section 2901 of the Omnibus Deficit Reduction Act a rescission of $184 thousand under the Motor Carrier Safety appropriation and a $2,155 thousand deferral under General Operating Expenses.

A supplemental request to increase the obligation limitation by $1,718 thousand under General Operating Expenses has been submitted in order to cover increased pay costs in FY 1985.

Sen. Stafford/Bentsen Ques. 5

Question: Please indicate if any legislative initiatives are necessary, or are being considered, to implement any part of the Agency's fiscal 1986 budget request. If so, please describe these proposals and specify the budgetary impact of each provision.

Answer: Several legislative initiatives are necessary to implement the 1986 budget for the Federal Highway Administration (FHWA). The proposal to shift funding of Interstate transfer-transit projects from the general fund to the Highway Account of the Highway Trust Fund will require legislative change. The $400 million fiscal year 1986 authorization from the general fund for Interstate transfer-transit projects would be repealed.

The budget request also proposes rescission of the $100 million of budget authority authorized in fiscal year 1986 for parkways and park highways. This too will require legislation to implement.

Public Works Question 6
HFS-10
March 1, 1985

Question No. 6 Please detail, for reductions taken in accordance with section 2901 of the Omnibus Deficit Reduction Act, and section 515 of P.L. 98-473, The Continuing Resolution, the class where savings will be acheived. Provide detail on the funding levels of those spending categories in FY 1984, FY 1985, and FY 1986. Also, provide object class information detailing where the FY 1985 10% cut in Administration would be acheived and what the funding levels were for those object classes for FY 84 and FY 85.

Answer Detailed accounting of Section 2901 savings and the 10% administrative reduction have been provided by account on the following tables.

REDUCTIONS UNDER SECTION 2901, DEFICIT REDUCTION ACT

FY 1985 BASELINE ESTIMATE REDUCTIONS

CATEGORY		APPROPRIATIONS FEDERAL AID	GEN'L OPER.	MTR. CARRIER	MISC. TR.FUND	TOTAL
1. MOTOR VEHICLES						
	Baseline	...	34,000	25,000	...	59,000
	Reduction (24.1%)	...	(8,194)	(6,025)	...	(14,219)
	New Target	...	25,806	18,975	...	44,781
2. TRAVEL AND TRANSPORTATION						
TRAVEL						
	Baseline	5,523,000	5,965,000	1,042,000	433,000	12,963,000
	Reduction (15.2%)	(839,496)	(906,680)	(158,384)	(65,816)	(1,970,376)
	New Target	4,683,504	5,058,320	883,616	367,184	10,992,624
TRANSPORTATION						
	Baseline	...	580,000	...	...	580,000
	Reduction (15.2%)	...	(88,160)	...	...	(88,160)
	New Target	...	491,840	...	...	491,840
TOTAL						
	Baseline	5,523,000	6,545,000	1,042,000	433,000	13,543,000
	Reduction (15.2%)	(839,496)	(994,840)	(158,384)	(65,816)	(2,058,536)
	New Target	4,683,504	5,550,160	883,616	367,184	11,484,464
3. PUBLIC AFFAIRS, PUBLIC RELATIONS, AND ADVERTISING						
	Baseline	...	230,000	...	...	230,000
	Reduction (37.4%)	...	(86,020)	...	...	(86,020)
	New Target	...	143,980	...	...	143,980
4. PUBLISHING, PRINTING, REPRODUCTION AND AUDIOVISUAL ACTIVITIES						
	Baseline	306,000	1,700,000	...	...	2,006,000
	Reduction (25.9%)	(79,254)	(440,300)	...	...	(519,554)
	New Target	226,746	1,259,700	...	...	1,486,446
5. CONSULTANT SERVICES						
	Baseline	...	2,000,000	...	...	2,000,000
	Reduction (31.3%)	...	(626,000)	...	...	(626,000)
	New Target	...	1,374,000	...	...	1,374,000
TOTAL	Baseline	5,829,000	10,509,000	1,067,000	433,000	17,838,000
	Reduction	(918,750)	(2,155,354)	(164,409)	(65,816)	(3,304,329)
	New Target	4,910,250	8,353,646	902,591	367,184	14,533,671

Public Works Question 1
HFS-10
March 5, 1985

Attachment

Question No. 1- Please list all categories, programs and projects which are not subject to the obligation limitation for fiscal year 1986 as contained in the President's fiscal year Budget submission. Please indicate FHWA's projected obligations for each of these programs in fiscal year 1986.

Answer The FY 1986 budget proposes two programs which would not be subject to the obligation limitation in FY 1986: the estimated obligations for Emergency Relief and Minimum Allocation in FY 1986 are $160 million and $830 million respectively.

All other proposed programs currently outside the limitation would be included in our proposed FY 1986 obligation limitation.

Mr. Stafford Question 2
Mr. Symms

FUNDING FOR FHWA SECTION 402 SAFETY GRANTS AND SECTION 403 RESEARCH AND DEVELOPMENT GRANTS

Question: The STAA of 1982 provided $10 million in contract authority for fiscal year 1986 for FHWA State and Community Grants and $13 million for FHWA Research and Development Grants. The President's fiscal year 1986 budget proposes no funding for FHWA State and Community Grants and $3.5 million for Research and Development Grants. What activities were carried out in these two categories during fiscal year 1985? Why were reduced funds requested in fiscal year 1986? Are there no further needs in this area or will necessary safety activities be accomplished through another program?

Answer: The Department currently has under consideration a proposal to consolidate certain highway safety functions. This proposal includes combining the administration of the separate FHWA and NHTSA State and Community Grants (402) Program at the FY 1985 levels under a single agency, along with associated Safety Research and Development (403) Grants. The fund reductions reflect possible action to transfer the responsibility for these programs to another part of the Department, not a diminishing need.

The major emphasis of the FHWA State and Community Grants in fiscal year 1985 was on improvements in State and local systems and techniques for identifying highway safety hazards and problems, and developing programs to correct these problems. Activities included data collection and analysis, special safety studies, program development, and training. The Research and Development Grants support these activities in part, but also cover FHWA research and development activities aimed at developing new and improved safety features and countermeasures for application in FHWA administered construction programs.

The funding request for fiscal year 1986 for Research and Development is $8.5 million. However, under the proposal currently being considered, we would transfer some of our responsibilities and $5 million to NHTSA. Typical research activities conducted by FHWA in fiscal year 1985 included the testing of two guardrail to bridge-rail transitions, the development of improved design procedures for truck climbing lanes, the determination of operational problems with larger trucks at sites with restrictive geometry, and the development of improved procedures for handling traffic during reconstruction. There is need for additional safety research. Even if some of these responsibilities are transferred, FHWA will continue to do work in the safety area to fulfill the mission of the agency.

MOTOR CARRIER SAFETY
F.Y.1986 BUDGET AUTHORITY
THOUSANDS OF DOLLARS

		Adjustments to Base and	Built-in Changes			F.Y. 1986 Changes			
	1985 P.L.98-473	F.Y. 1985 RESCISSION	F.Y.1985 REVISED	ANNUALIZE 1985 PAY ACT	F.Y. 1985 ADJUSTED BASE	ADMINISTRA-TIVE CUT	5% PAY CUT	STAFFING INCREASE	F.Y.1986 TOTAL REQUEST
Personnel Resources									
Full-Time Permanent Positions	271		271		271			12	283
Full-Time Permanent FTE	254		254		254			6	260
Other than Full-Time Permanent	19		19		19				19
Financial Resources									
Salaries and Benefits	9,435		9,435	318	9,753		(354)		9,399
Travel	1,042	(158)	884		884	(45)			839
Transportation	5		5		5				5
Rent	20		20		20				20
Printing	1		1		1				1
Other Services:	3,388	(6)	3,382		3,382	(164)			3,218
Contract Program	(1,162)		(1,162)		(1,162)	116			(1,046)
Admin.Transfer	(1,601)		(1,601)		(1,601)				(1,601)
All Other	(625)	6	(619)		(619)	48			(571)
Supplies and Materials	76		76		76	(8)			68
Equipment	99		99		99	(10)			89
TOTAL	14,066	(164)	13,902	318	14,220	(227)	(354)		13,639

FEDERAL HIGHWAY ADMINISTRATION
LIMITATION ON GENERAL OPERATING EXPENSES
F.Y. 1986 Budget
($ in thousands)

Personnel Resources	FY 1985 Approp.	Resciss. Deficit Act Reduct.	Revised FY 1985	Adjusts. to Base: Pay Act Annual.	FY 1985 Adjusted Base	Management Savings and Initiatives: Admin. Expense Cut	SLUC and ADP	A-76	Pers. Staff	5% Salary Reduct.	Program Changes	Total FY 1986 Request
Full-time Permanent Positions	2,873		2,873		2,873							2,873
Full-time Permanent FTE	2,818		2,818		2,818							2,818
Other than Full-time Permanent FTE	205		205		205							205
Financial Resources												
Salaries and Benefits	110,021	-86	117,935	2,632	120,307			-1,290	-602	-4,204		114,301
Travel	6,065	-907	5,158		5,158	-516						4,642
Transportation	803	-100	703		703	-70						633
Rent, Comm. and Util.:	15,871		15,871		15,871	-577	-345					14,949
Standard level user charges	(10,106)		(10,106)		(10,106)		(-345)					(9,761)
Comm., util., and other rent	(5,765)		(5,765)		(5,765)	(-577)						(5,188)
Printing and reproduction	1,500	-440	1,060		1,060	-107						953
Other services:	68,957	-634	68,323	16	68,339	-639	-146	+1,110				68,664
R&D Highways	(12,355)		(12,355)		(12,355)	(-243)					(+2,145)	(14,257)
Highway Safety R&D	(7,243)		(7,243)		(7,243)						(+1,257)	(8,500)
Skill Training	(4,260)		(4,260)		(4,260)						(+740)	(5,000)
Minority Business Enterprise	(8,521)		(8,521)		(8,521)						(+1,479)	(10,000)
Interjur. Trucking Program	(707)		(707)		(707)	(-8)					(+132)	(831)
Nat'l Accident Sampling System	(554)		(554)		(554)	(-7)					(+96)	(643)
Bonding Demo. Program	(5,000)		(5,000)		-5000						(-5,000)	...
Commodity Flow Study	(724)		(724)		(724)	(-9)					(-265)	(450)
Rural Transp. Assist. Program	(4,260)		(4,260)		(4,260)	(-50)					(+740)	(4,950)
National Highway Institute	(1,430)		(1,430)		(1,430)	(-14)						(1,416)
Demonstration Projects	(3,000)		(3,000)		(3,000)	(-30)						(2,970)
Other	(18,843)	(-634)	(18,209)	(16)	(18,225)	(-97)	(-146)	(+1,110)			(-1,383)	(17,709)
Supplies	1,231		1,231		1,231	-123						1,108
Equipment	2,163		2,163		2,163	-216						1,947
Total Appropriation	206,607	-2,155	204,452	2,648	207,100	-2,248	-491	-180	-602	-4,204	...	199,467

Mr. Stafford/Mr. Symms - Ques. #3

INTERSTATE SUBSTITUTION FUNDING

Question: The President's fiscal year 1986 budget proposes to permit funding of both highway and transit substitute projects from the $725 million authorized out of the Highway Trust Fund for highway projects for fiscal year 1986.

(a) Please discuss the reasons for this change in policy;

(b) Please provide a table showing the current status of funds obligated for both highway and transit substitute projects to date and the remaining entitlements for highway and transit projects for each withdrawal Interstate segment;

(c) What effect will consolidating these two programs and not increasing the funding level have on substitute projects now under construction; and

(d) On completing the entire program?

Answer: (a) The Highway Trust Fund would have financed completion of the entire Interstate System. Our budget proposal would make the Highway Trust Fund the funding source for all the projects substituted for the withdrawn Interstate segments, not just the substitute highway projects.

(b) A listing of substitute highway and transit obligations and remaining withdrawal values by withdrawal area (as of December 31, 1984) is attached.

(c) Many of the substitute projects now under construction will be completed with funding already obligated on those projects. For other projects, State and local governments must determine which projects will be advanced and which will be deferred, pending the availability of the additional funds. The advance construction provisions of 23 U.S.C. 115 and the bond retirement provisions of 23 U.S.C. 122 apply to substitute highway projects. States may advance projects under these provisions if the project cannot be deferred until Federal funds become available.

(d) At the 1982 STAA, fiscal year 1986 level of $725 million for substitute highway projects, we anticipate that all substitute projects can be completed with funding by fiscal year 1992. This is only a one-year extension beyond our estimate for completing substitute highway projects based on current legislation and the continued $725 million per year funding level.

Status of Interstate Withdrawals*
as of 12/31/84

State (Withdrawal Area)	Obligations		Remaining Withdrawal Value
	Highway	Mass Transit	
Arizona (Tucson)	58,125,197	1,133,883	9,436,162
California (Sacramento)	0	55,581,318	40,523,343
California (San Francisco)	500,000	2,655,000	87,164,988
Colorado (Denver)	130,779,697	18,419,993	114,630,304
Connecticut (Bolton to Killingly)	11,224,607	0	391,404,401
Connecticut (Hartford-New Britain)	146,299,980	16,212,785	492,973,174
District of Columbia (Washington)	89,803,068	1,962,686,284	144,776,476
Georgia (Atlanta)	14,369,376	0	98,213,268
Illinois (Chicago)	877,776,741	239,726,860	1,429,669,395
Indiana (Indianapolis)	24,136,073	11,000,000	52,347,576
Iowa (Waterloo)	31,472,757	609,960	282,773,331
Maryland (Baltimore)	60,041,416	109,481,403	909,319,402
Maryland (Bowie to Millersville)	4,488,041	0	86,983,482
Maryland (Washington)	397,609	146,169,200	7,867,301
Massachusetts (Boston)	10,511,826	1,372,676,181	152,133,378
Massachusetts (Fall River to Providence)	1,830,618	0	12,403,619
Minnesota (Duluth)	27,071,247	3,883,457	43,402,953
Minnesota (Minneapolis-St. Paul)	57,412,453	2,999,990	61,568,220
Nebraska (Omaha)	49,850,512	1,999,999	26,418,575
New Jersey (New York City)	35,946,166	92,210,092	56,480,849
New Jersey (New York City to Trenton)	8,940,786	16,700,000	220,740,739
New Jersey (Philadelphia)	36,532,892	19,292,580	62,915,179
New York (Albany)	41,892,643	5,747,496	13,879,934
New York (New York City)	79,763,912	86,431,842	113,793,245
Ohio (Cleveland)	71,051,755	5,406,493	184,871,755
Oregon (Portland)	198,487,293	150,744,304	151,421,607
Oregon (Salem)	29,604,087	0	27,240,798
Pennsylvania (Philadelphia)	70,336,853	344,694,436	65,106,042
Pennsylvania (Pittsburgh)	4,733,565	0	61,096,830
Rhode Island (Rhode Island)	47,486,116	2,082,568	597,152,027
Tennessee (Memphis)	53,563,833	4,099,980	228,014,540
Virginia (Washington)	2,508,419	51,725,056	23,941,163
TOTAL	2,276,939,536	4,724,371,160	6,252,664,058

*All costs are in Federal funds.

Senator Stafford Ques. 4
Senator Symms

FY 1986 PARK ROAD AND PARKWAY RESCISSION

Question: The fiscal year 1986 budget proposes to eliminate the $100 million authorized from the Highway Trust Fund in fiscal year 1986 for the Park Roads and Parkway Program. One reason given for eliminating these funds is that a $1 billion park restoration initiative is complete. How much of the $1 billion was spent on park roads and parkways which were eligible for Park Roads and Parkway Program funding? Are there any remaining needs for construction or repair and rehabilitation of park roads and parkways? If so, please list by State. If there are no current needs, what future needs are projected?

Answer: Of the $175 million authorized for park road and parkways for fiscal years 1983 and 1984, $171 million has been obligated for park road and parkway restoration, construction, and safety improvements. The fiscal year 1985 priority Park Roads and Parkway Program plan is scheduled for $99 million of construction and restoration improvements.

While there will be, of course, need for Park Road and Parkway projects in the future, the Department of the Interior has determined that existing road projects are not sufficiently high in priority to merit funding in FY 1986, given the need for fiscal restraint. Unforeseen park road needs, as may develop, can be financed through the use of unobligated balances in the program, through reprogramming, or by the construction program of the National Park Service.

Mr. Stafford Ques. 5
Mr. Symms

TRANSFER OF CERTAIN HIGHWAY FUNCTIONS

Question: According to the fiscal year 1986 budget proposal, legislation will be proposed to transfer certain highway safety functions from FHWA to NHTSA. Please specify which functions would be transferred, what level of funding would be provided for each in fiscal year 1986, and what the safety initiative priorities of the Department are in fiscal year 1986.

Answer: A legislative proposal has been under consideration to transfer from FHWA to NHTSA the total Bureau of Motor Carrier Safety Program, and activities that involve setting standards for Section 402 safety grants relating to certain aspects of highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian safety. In the meantime, Administrator Barnhart has been authorized to take steps to strengthen the BMCS program within FHWA. The FY 1986 budget request for Motor Carrier Safety is $13,639,000 of which $1,046,000 is for Research and Development, and $14 million for the Motor Carrier Safety Assistance Program. For highway-related safety grants, $10 million, and highway safety R&D, $8.5 million.

Senator Stafford
Senator Symms Ques. 6

HIGHWAY TRUST FUND INTEREST

Question: Is the Department or the Office of Management and Budget considering any proposal which would provide that interest paid on funds borrowed from the Highway Trust Fund no longer accrue to the Highway Trust Fund?

Answer: Neither the Department nor the OMB are considering such a proposal. Balances in the Highway Trust Fund, including both the Highway Account and the Mass Transit Account, determined to be in excess of requirements for current outlays are invested by the Secretary of the Treasury in interest-bearing securities of the United States. In FY 1984, the Highway Account received $1.116 billion in interest. This accounted for 9 percent of its total receipts. The Mass Transit Account earned $89 million (or 7 percent of its total receipts) during FY 1984. Sound cash management of the Highway Trust Fund has ensured that user fees (including the interest they generate) are available when outlays are necessary. The interest component has supplemented direct revenue and supported further highway improvements while ensuring that the Trust Fund continues on a pay-as-you-go basis.

Senator Stafford Question 7
Senator Symms

OTHER USES OF CUMBERLAND GAP AUTHORIZED FUNDS

Question: Funds have been authorized and appropriated out of the Highway Trust Fund for the Cumberland Park project. How much has been appropriated for this project? What portion of the appropriated funds have been obligated? What is the remaining cost of the project? What would be the Department's position if OMB proposed to transfer funds appropriated for this project to other non-highway or non-transportation related activities? Please cite any authority the Administration may have to transfer Highway Trust Fund monies to other agencies for non-transportation purposes.

Answer: A total of $45.5 million has been authorized and appropriated out of the Highway Trust Fund for the Cumberland Gap project.

Of the Highway Trust Funds authorized, $10.83 million has been obligated for engineering and first stage construction work.

The remaining unfunded program cost for completion of the Cumberland Gap project is estimated at $110 million which includes construction, engineering, administration, and contingencies.

The unexpended funds for the project (estimated to be $38.2 million) are the subject of a deferral message. The President's FY 1986 Budget, assuming the deferral, proposes transferring these funds to other Department of the Interior accounts for increased pay costs and to repay transfers for fire protection in 1984. Statutory language will be necessary to authorize the proposed use of the funds.

Public Works Question 8
HFS-10
March 5, 1985

Question No. 8 - Please provide a table showing the status of the Highway Trust Fund, including both the Mass Transit and Highway Accounts, from fiscal year 1984 through fiscal year 1990 assuming an obligation limitation of $13.250 billion in fiscal years 1985 - 1990. Programs currently not subject to the obligation limitation should be assumed to be outside the ceiling through fiscal year 1990.

Answer The attached table provides the required. FY 1986 outlays have not been recalculated, but conform to the totals in the President's Budget proposal.

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3-5-85

HIGHWAY TRUST FUND ANALYSIS
Senate PWC Request**
Freeze Proposal

	FY 1984	FY 1985	FY 1986	FY 1987	FY 1988	FY 1989	FY 1990
Highway Trust Fund Balance:							
Balance Start of Year	9,580.7	11,821.6	13,009.1	13,691.8	13,766.6	13.842.8	13,967.7
Tax Receipts	11,742.6	13,316.0	13,621.0	13,835.0	14,032.0	14,299.0	14,534.0
Interest	1.115.7	1,270.8	1,414.7	1,437.6	1.359.4	1.245.9	1,082.5
Outlays (-)	(10,617.4)	(13,401.3)	(14,353.0)	(15,197.9)	(15,315.2)	(15,420.0)	(15,528.2
Balance End of Year	11,821.6	13,009.1	13,491.8	13,766.6	13,842.8	13.967.7	14,055.9
Investment Rate	0.10750	0.10875	0.10500	0.09875	0.09000	0.07750	0.06875
Mass Transit Account:							
Balance Start of Year	519.1	1,611.0	2,662.0	3,526.4	4,169.7	4,708.4	5,265.8
Tax Receipts	1,236.0	1,237.0	1,242.0	1,249.0	1,247.0	1,257.0	1,275.0
Interest	89.1	173.2	289.5	370.3	411.8	423.8	408.1
Outlays (-)	(233.2)	(359.2)	(667.1)	(975.9)	(1,120.1)	(1,123.3)	(1,103.4)
Balance End of Year	1,611.0	2,662.0	3,526.4	4,169.7	4,708.4	5,265.8	5,845.6
Highway Account:							
Balance Start of Year	9,061.6	10,210.6	10,347.1	10,165.4	9,596.8	9,134.4	8,701.8
Tax Receipts	10,506.6	12,081.0	12,379.0	12,586.0	12.785.0	13,042.0	13,259.0
Interest	1,026.6	1.097.6	1,125.2	1,067.4	947.7	822.1	674.4
Outlays (-)	(10,384.2)	(13,042.1)	(13,685.9)	(14,222.0)	(14,195.1)	(14,296.7)	(14,424.9)
Balance End of Year	10,210.6	10,347.1	10,165.4	9,596.8	9,134.4	8,701.8	8.210.3

**Assume $13.250 limitation plus .$990 exempts for FY 1985-90
Actuals thru February
FY 1986 outlays same as President's Budget

Public Works Question 9
HFS-10
March 1, 1985

Question No. 9 - What is the current balance in the Highway Trust Fund? What will it be at the end of fiscal year 1985? What effect will (a) the proposed freeze at fiscal year 1985 levels, and (b) the proposed freeze plus the proposed $500 million cut in obligational authority have on reducing deficits and moving toward a balanced budget?

Answer

Balances - Current and End-of-Year

The balance in the Highway Trust Fund as of December 31, 1984, (the latest date for which actual data is available) was $12.328 billion, with $10.389 billion attributable to the highway account. At the end of FY 1985, the balance in the Highway Trust Fund is estimated to be $13.009 billion with $10.347 attributable to the highway account.

Effect of the freeze on balance

The table accompanying the preceding question (8) shows the effect of the freeze on the Highway Trust Fund balance.

Effect of freeze plus an additional cut of $500 million

The attached table gives the required data.

LOCATION B61
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3-5-85

HIGHWAY TRUST FUND ANALYSIS
Senate PWC Request**
Freeze Proposal less $500 million 86-90

	FY 1984	FY 1985	FY 1986	FY 1987	FY 1988	FY 1989	FY 1990
Highway Trust Fund Balance:							
Balance Start of Year	9,580.7	11,821.6	13,009.1	13,691.8	14,112.6	14,645.0	15,287.0
Tax Receipts	11,742.6	13,318.0	13,621.0	13,835.0	14,032.0	14,299.0	14,534.0
Interest	1,115.7	1,270.8	1,414.7	1,437.6	1,393.6	1,318.0	1,184.7
Outlays (-)	(10,617.4)	(13,401.3)	(14,353.0)	(14,851.9)	(14,893.2)	(14,975.0)	(15,069.2)
Balance End of Year	11,821.6	13,009.1	13,691.8	14,112.6	14,645.0	15,287.0	15,936.5
Investment Rate	0.10750	0.10875	0.10500	0.09875	0.09000	0.07750	0.06875
Mass Transit Account:							
Balance Start of Year	519.1	1,611.0	2,662.0	3,526.4	4,169.7	4,708.4	5,265.8
Tax Receipts	1,236.0	1,237.0	1,242.0	1,249.0	1,247.0	1,257.0	1,275.0
Interest	89.1	173.2	289.5	370.3	411.8	423.8	408.1
Outlays (-)	(233.2)	(359.2)	(667.1)	(975.9)	(1,120.1)	(1,123.3)	(1,103.4)
Balance End of Year	1,611.0	2,662.0	3,526.4	4,169.7	4,708.4	5,265.8	5,845.6
Highway Account:							
Balance Start of Year	9,061.6	10,210.6	10,347.1	10,165.4	9,942.8	9,936.6	10,021.2
Tax Receipts	10,506.6	12,081.0	12,379.0	12,586.0	12,785.0	13,042.0	13,259.0
Interest	1,026.6	1,097.6	1,125.2	1,067.4	981.9	894.3	776.6
Outlays (-)	(10,384.2)	(13,042.1)	(13,685.9)	(13,876.0)	(13,773.1)	(13,851.7)	(13,965.9)
Balance End of Year	10,210.6	10,347.1	10,165.4	9,942.8	9,936.6	10,021.2	10,091.0

**Assume $12.75 limitation plus .8990 exempts for FY 1985-90
Actuals thru February

Sen. Stafford/Symms Ques. 10

PROGRAM EMPHASIS AREAS

QUESTION: Please list and give a brief description of FHWA's program emphasis areas for fiscal year 1986.

ANSWER: At present, we have not identified our program emphasis areas for FY 1986. In late February, 1985, the process to identify emphasis areas for FY 1986 was begun. Our target date for issuance of final emphasis areas is July 1, 1985. We expect to continue to give attention to the areas identified for FY 1985: (1) safety, (2) disadvantaged business enterprise program, (3) effective implementation of STAA of 1982 funding, and (4) quality design and construction, and will concentrate on the special emphasis areas identified for FY 1986.

Senator Stafford/Senator Symms - Ques. #11

EFFECT OF INTERSTATE COST ESTIMATE DELAY

QUESTION: Please describe the effect that the prolonged delay in release of Interstate construction and Interstate substitute funds has had on the States and on the Federal-aid highway program.

ANSWER: Congressional action on an Interstate Cost Estimate was needed to release more than $5 billion in Interstate construction funds. This $5 billion with $2 billion more in Interstate substitution and minimum allocation funds are necessary to allow timely completion of the Interstate System and substitute projects as envisioned when Congress increased the highway user charges.

Delays have added to the cost of the System. As of January, the loss of purchasing power due to the delay in apportioning fiscal year 1985 and 1986 funds reached approximately $159 million and this figure has increased at an estimated rate of $18 million each month the ICE approval was delayed.

At the time the bill was signed, there were 46 States without sufficient Interstate funds to move projects forward.

Senator Stafford/Senator Symms - Ques. #12

COMPLETION OF THE INTERSTATE SYSTEM

QUESTION: In order to finally complete the Interstate System as planned, some very expensive urban projects must be constructed. Since many of them are of primarily local and regional significance, do you believe the projects should be completed no matter what the cost, or should another look be taken at redefining what is meant by completion of the Interstate?

ANSWER: Secretary Dole's January 14, 1985, transmittal of the Interstate Cost Estimate indicated that the Department would submit a comprehensive transportation proposal in the spring.

The very items you address are being evaluated as part of this proposal.

Senator Stafford/Senator Symms - Ques. #13

HIGHWAY TRUST FUND EXTENSION

QUESTION: Will the Administration request an extension of the Highway Trust Fund as a part of its package of reauthorizing legislation? If so, for what number of years should the Trust Fund be extended?

ANSWER: Yes, we will request an extension of the Highway Trust Fund as part of our proposed reauthorizing legislation. The Trust Fund is traditionally extended the same number of years as the period for which authorizations are provided.

Sen. Stafford/Symms Ques.14

HIGHWAY NEEDS REPORT

QUESTION: When will the new highway Needs Report be submitted to Congress?

ANSWER: The Report has been completed and is undergoing review within the Department of Transportation. It should be forwarded to Congress before March 31, 1985.

Question No. 15

HIGHWAY BEAUTIFICATION PROGRAM FUTURE

QUESTION: Both the General Accounting Office and the Department of Transportation's Inspector General have recently completed reports on the highway beautification program. What is FHWA's response to the findings of the two reports?

ANSWER: Many of the issues which the General Accounting Office (GAO) and the Department of Transportation Inspector General (OIG) have identified in their reports have been of concern to the Federal Highway Administration for years. The Department is considering legislative options as part of the STAA reauthorization.

Mr. Stafford/Mr. Symms - Ques. #16

NEW YORK I-478, WESTWAY LANDFILL

QUESTION: Please provide information regarding the credit for land development reflected in the 1985 Interstate Cost Estimate for I-478 (Westway) in New York.

(a) How many acres of land will be created by this project?

(b) How many acres are absolutely essential for the highway project?

(c) What amount has been credited to the project for the value of land created which is not necessary to the project?

(d) What is the projected value of land on Manhattan at the time this land will be ready for sale?

(e) Is there any provision for further payback based on the value of development on this land and the addition to the tax revenue base?

ANSWER: (a) The Westway (I-478) is planned to be constructed, in part, on a 234-acre landfill along the lower westside of Manhattan in the Hudson River.

(b) As the project was developed under the National Environmental Policy Act, the entire 234-acre landfill has been determined to be either essential for the roadway elements or an integral part of the project as an essential environmental requirement per Section 4(b) of the 1981 Highway Act.

(c) There will be no credit to Federal funds until after construction of the landfill and the property is actually sold.

(d) The development of the project, and therefore the time of sale, is uncertain. We have not estimated the value of the land at some indefinite future date. As a part of the 1985 ICE, we estimated the value of the land to be sold (in 1983 dollars) to be approximately $270 million.

(e) The credit to Federal funds is expected to be the Federal prorata share (90 percent) of the fair market value of the land at the time of sale.

NOTE: **In the event that disposal takes the form of a long term lease (rather than sale) it is expected that Federal funds would be credited on a normal pro rata basis.**

Senator Stafford and Senator Symms Ques. #17

Audits of DBE/WBE Program

QUESTION: The Department's Inspector General recently released a report concerning two audits of FHWA's Disadvantaged Business Enterprise (DBE) and Women's Business Enterprise (WBE) Programs. What is the Office of the Secretary and FHWA's response to these audits? What efforts are being made to assure that only legitimate businesses are participating in this program?

ANSWER: We basically agree with the audit report recommendations, but we believe the report gives a misleading overall impression of our DBE/WBE program since it is based on 1983 data. Since January 1983, there has been a substantial increase in participation by bona fide DBEs/WBEs and a greatly improved climate in which these firms may compete. Therefore, the DBE/WBE program has been effective despite the existence of some ineligible or questionable firms, and our reports of program accomplishments have not been significantly overstated as the report indicates.

In November 1983, FHWA issued detailed guidelines on procedures for certification and verification of the eligibility of DBEs/WBEs. On many occasions since the program's inception, we have stressed the importance of strong certification procedures to prevent the infiltration of "fronts and shams." This was the major focus of several presentations at each of the regional DBE seminars we conducted last year in cooperation with the American Association of State Highway and Transportation Officials. Between October 1, 1983, and December 31, 1984, nearly 5,000 in-depth reviews were made by States to verify the eligibility of DBE/WBE firms. During that time, more than 2,500 firms were either decertified or had their applications denied by the States. This was about 17 percent of the firms on which certification actions were taken during that time.

Senator Bentsen - Ques. #1

EFFECT OF REDUCTION OF THE OBLIGATION CEILING

QUESTION: What will be the effect of these reductions on operations of the program or in program priorities, including any additional time it will take to carry out program responsibilities?

ANSWER: The $500 million reduction, spread over all 50 States, probably would have a relatively small effect on operations of the program or in program priorities. Congress' recent approval of an "18-month ICE" means that the States will be able to use all of their obligation authority this year and correct the skewing of the Federal-aid program toward non-Interstate programs. That will help to mitigate the effects of a reduction in next year's program, if enacted.

Senator Bentsen - Ques. #2

QUESTION: Regarding the $12.750 billion - $500 million reduction as proposed in S. 391, what effect will this have on personnel increases or decreases?

ANSWER: If the $12.750 billion obligation ceiling as proposed in S. 391 becomes law, it will have no effect on FHWA's personnel level.

Senator Bentsen - Ques. #3

QUESTION: Regarding the $12.750 billion - $500 million reduction as proposed in S. 391, will this cause any recissions or deferrals?

ANSWER: Reducing the Federal Aid Highway obligation limitation will not result in the Federal Highway requesting rescissions or deferrals.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240

ADDRESS ONLY THE DIRECTOR,
FISH AND WILDLIFE SERVICE

February 26, 1985

Honorable Robert T. Stafford
Chairman, Committee on Environment
and Public Works
U. S. Senate
Washington, D. C. 20510

Dear Mr. Chairman:

The attached material has been prepared in response to your request for information on the President's FY 1986 budget proposal for the U. S. Fish and Wildlife Service. This information should assist you in providing recommendations to the Budget Committee for Service programs within your Committee's jurisdiction.

The following material is attached: (1) written testimony on the President's FY 1986 budget proposal for the U. S. Fish and Wildlife Service; (2) responses to specific questions concerning the proposed budget; (3) the FY 1986 budget categories according to activity and subactivity; (4) a listing of areas in the FY 1985 budget affected by the proposed rescission; and (5) a description of the budget supplemental which requests a change in the appropriation language for the FY 1985 budget.

I have apprecia[illegible] the opportunity to provide this information and hope that it is useful to you in formulating your recommendations.

Sincerely,

Robert A. Jantzen
Director

Attachment

1. Question. Please discuss in detail the budget request for fiscal year 1986. How do these figures compare to the amounts actually appropriated in fiscal year 1985, and the amounts appropriated in fiscal year 1984?

   Answer. Discussion of FY 1986 budget begins on page 3 of my opening statement and continues through the end of the statement on page 7 (attachment A). The attached table (attachment B) provides a comparison of amounts actually appropriated in 1984 and 1985 with the FY 1986 budget estimate.

2. Question. Please discuss the rationale for the increases or decreases in the level of funding for fiscal year 1986. In areas where programs are increased, indicate whether these budgetary increases are tied to new agency initiatives or an increase in on-going programs. Specify what the additional funds will provide. In the programs where reductions have been made, what specific areas of the program will be reduced or eliminated and what will be the effect of these reductions on operation of the programs? If there is no change in funding from last year, what changes are made in program priorities?

   Answer.
   The rationale for FY 1986 budgetary changes is fully explained in my prepared statement before the Senate Appropriations Subcommittee for Interior and Related Agencies. The Fish and Wildlife Service portion of the Interior Budget Brief presents narrative summaries and in-depth comparisons of 1985 and 1986 budgetary and employment resource estimates (attachment C). Both documents are attached for your information.

3a. Question. What personnel increases or decreases are being proposed?

Answer. The Service is proposing to decrease personnel by 67 ceilings in FY 1986 when compared to the current budget for FY 1986. The reductions are outlined accordingly:

Resource Management
- Consolidation (29 FTEs)
  - Intra-bureau consolidation
    Consolidate mail services and safety functions.

    Inter-bureau consolidation
    Savings through inter-bureau consolidation of payments and procurement centers.
- Improve Management of Information (4 FTEs)
  - Efficiencies obtained through expansion of electronic transfer and storage of information

    Savings through intrabureau consolidations and improved efficiency in acquisition, application and management of ADP technology.

Because of the multiplicity of field stations, recent installation of micro-computer networks will provide rapid access to management information data.

Streamling review procedures and functions (9 FTEs)
Streamline regional program evaluations procedures, reduce reporting requirements for the semi-annual programmatic meetings, and expand the use of tele-conferencing.

Increased reliance on the national level of refuge management. Information system will reduce regional level ADP costs.

Subtotal FTEs ....-42
Land Acquisition .... -5
Staffing has been adjusted to correspond to program budget request proposals.

Reimbursables - Resource Management.-20
Total .... -67

3b. Question. How will this affect the agency's ability, including any additional time it will take to carry out its program responsibilities?

Answer. Proposed personnel reductions should have minimal impacts on the ability of the Service to carry out its mission in a timely and efficient manner.

4. Question. Please discuss any rescissions, deferrals, or supplementals requested for FY 1985.

Answer. The Service has requested a rescission under section 2901 in the amount of $3,909,000 in FY 1985. This rescission request includes $3,869,000 in Resource Management and $40,000 in Construction funding. Attachment D provides detail on the distribution of this reduction.

The Service also has a supplemental request for FY 1985 proposing a change in appropriation language for the YCC program. The Service is requesting approval to reduce the YCC program from $3,300,000 to $1,300,000 in FY 1985 (attachment E).

The Service has not requested any deferrals of budget authority in FY 1985.

5. Question. Please indicate if any legislative initiatives are necessary or are being considered, to implement any part of the agency's FY 1986 budget request. If so, please describe these proposals and specify the budgetary impact of each provision.

Answer. Under existing authority, the Service charges fees for some special recreation programs, facilities, or equipment on national wildlife refuges. Approximately $135,500 is expected in FY 1985 and $145,000 in FY 1986. Through FY 1985, all fees will be credited to the Land and Water Conservation Fund for purposes authorized by the Land and Water Conservation Fund Act without regard to the source of revenues. Proposed National Park Service appropriation language would make these monies available for use in funding facilities improvements and for protection and restoration on refuges currently offering specialized outdoor recreation sites and facilities to the public.

Question 6. Please detail, for reductions taken in accordance with section 2901 of the Omnibus Deficit Reduction Act, and section 515 of PL 98-473, The Continuing Resolution, the class where savings will be achieved. Provide detail on the funding levels of those spending categories in FY 1984, FY 1985, and FY 1986. Also, provide object class information detailing where the FY 1986 10% cut in Administration would be achieved and what the funding levels were for those object classes for FY 1984 and FY 1985.

The Service anticipates realizing savings in five administrative areas: acquisition and operation of motor vehicles, travel and transportation of persons, printing and reproduction, public affairs, and consultant services. This amount of savings in each category is shown on Attachment D. Funding levels of these categories for FY 1984, 1985, and proposed for 1986 is provided on Attachment D.

The Service has no reductions under section 515 of PL 98-473.

The Service will realize savings under the 10% Administrative reduction as follows:

Object Class	FY 1984 Actual	FY 1985 Budget	FY 1986 Request	10% Admin Savings 1/
11.1 Full-time permanent	128,142	133,952	127,336	-2,208
12.1 Personnel benefits	20,650	21,592	21,366	-307
21.0 Travel and transportation	9,621	9,747	9,465	-173
23.2 Communications, utilities, and other rent	12,070	12,529	12,312	-217
24.0 Printing and reproduction	1,783	2,045	2,013	-32
25.0 Other services	39,396	49,186	50,311	-907
26.0 Supplies and materials	20,575	19,401	19,031	-370

1/ This amount included in FY 1986 request column.

The Service also has been active with respect to wildlife resources. In FY 1982, maintenance funding on refuges was $5.7 million. The Accelerated Refuge Maintenance Management (ARMM) program was initiated in 1984 to provide for refuge maintenance needs. Approximately $14.6 million was expended during FY 1984 to rehabilitate or maintain domestic water supplies, septic systems, water control structure, dikes, roads, offices, administrative, maintenance and storage facilities, as well as habitat and wildlife populations. The Service is continuing to emphasize the ARMM program in FY 1985 ($17.2 million level), and is also implementing a program to resolve resource problems on refuges.

During the past five years, considerable resources have been made available to the Service for land acquisition. Between the period from 1981 to 1984, $73.3 million was obligated from the Migratory Bird Conservation account to obtain more than 170,000 acres of important migratory bird habitat. During the same time frame, $70.7 million from the Land and Water Conservation Fund (LWCF) has been used for the purpose of acquiring more than 72,000 acres of other valuable refuge lands. Moreover, during FY 1985, $37.6 million in new Migratory Bird Conservation Funds and $63.2 million from the Land and Water Conservation Fund are available to continue these acquisitions.

Law enforcement efforts focused on major illegal commercialization of wildlife and continued to rely on undercover operations for investigative purposes. Numerous undercover activities concerned the importing and exporting of endangered species and illegal fishery operations, particularly related to fisheries in the Pacific and Great Lakes coastal regions. One investigation concerned the illegal taking of approximately two million pounds of lake trout from Lakes Superior and Michigan.

Cooperative work continued with the States, Canada, and Mexico to implement species and population management plans for waterfowl, cranes, and other migratory birds. During 1984, 51 management plans were proposed or were under review. Extensive field work also was continued in order to provide data for evaluating stabilized duck hunting regulations in the United States and Canada.

Continued attention has been given to the development of recovery plans for endangered and threatened species. During FY 1984, the number of approved recovery plans for listed species increased by 54 to a total of 187. During this same time period, 46 more native and foreign animals and plants were added to the U.S. list of Endangered and Threatened Species. The list is currently composed of 828 species (331 domestic), consisting of 730 Endangered (270 domestic), and 98 threatened (61 domestic). Three species were reclassified from Endangered to Threatened during FY 1984: the peregrine falcon, the Utah prairie dog, and the snail darter. These reclassifications reflect improvements in species status either due to the location of additional populations or positive results due to recovery actions implemented on their behalf. Additional Section 6 cooperative agreements were also negotiated with states during FY 1984 to protect fauna and flora. Three cooperative agreements were finalized with states for fish and wildlife and three agreements were negotiated for plants. The number of cooperative agreements now totals 41 for fish and wildlife and 14 for plants.

In order to conserve our national fishery and wildlife resources, the Service conducts numerous research and assessment activities to protect habitat and to determine the effects of human activities on habitat areas. Our budget testimony before this subcommittee a year ago indicated several budgetary initiatives for FY 1985. As a result of these initiatives, we have recently commenced additional research activities related to acidified surface waters and contaminants impacting fish and wildlife. As part of the funds provided in FY 1985, we are also involved in research activities related to the coordinated national effort to clean up the Chesapeake Bay.

The status of our national wetlands continues to be a major concern to the Service. During FY 1984, we extended the National Wetland Inventory map coverage to 35% of the coterminous United States and 8% of Alaska. As a related effort, we have initiated a special wetlands study to analyze the impact of Federal programs on wetland loss. Our attention has also recently been focused on predevelopment consultation opportunities, particularly those involving agricultural activities, to conserve wetland areas for migratory waterfowl.

During FY 1984 and FY 1985, we have conducted follow-up studies designed to assess the effectiveness of Service recommendations in support of the Fish and Wildlife Coordination Act activities conducted in all of our regions. Our efforts during FY 1985 to address contaminant problems affecting Service and non-Service lands have been intensified including the establishment of a streamlined contaminant analysis capability at the Patuxent Wildlife Research Center. Our monitoring activities continue to assess fish and wildlife quality by investigating contaminants resulting from agriculture, industrial or energy-related activities.

Turning now to the FY 1986 budget, I would like to discuss the highlights of our request at this time.

Within the framework of a designed budget to "freeze" and restrain Federal spending to aid in controlling the national deficit, the Fish and Wildlife Service is proposing a budget that not only continues existing activities but also accommodates new budget initiatives.

The major thrusts of this budget proposal are:

- lead/non-toxic shot
- the Lower Snake River Compensation Plan
- the Sport Fish Restoration Account
- endangered species recovery activities
- savings from management efficiencies

The issues surrounding the use of lead shot for waterfowl hunting have created controversy within the conservation community for many years. Recent discussions between involved groups, including Federal and State agencies and industry representatives, have recognized the need to establish a basis for making objective decisions related to the role of lead shot in lead poisoning in waterfowl and the need for non-toxic shot zones. We have worked with the Under Secretary to develop an action plan to obtain the information needed to resolve outstanding questions. Although some activities will begin this year, we are proposing $1.1 million in FY 1986 to intensify these efforts. Studies will include: analysis of lead levels in waterfowl on 40 sites, identification of site specific areas of exposure to lead; a crippling loss study; and an information program to provide objective information on lead poisoning in waterfowl to the public.

The second major initiative for FY 1986 is related to restoration of salmon and steelhead trout runs in the Snake River Basin. Historically, the Snake River system was one of the outstanding river systems for production of these anadromous fishery resources. After the construction of hydropower projects on the lower reaches of the river from 1960 to 1975, a major decline in fish runs occurred and the Lower Snake River Compensation Plan was authorized to mitigate those fishery losses. Service funding of operation and maintenance costs for fishery mitigation facilities constructed by the Corps of Engineers began in 1980. We are requesting $5.6 million in FY 1986 for operation and maintenance of facilities constructed in accordance with the Compensation Plan. This includes an increase of $1.2 million to initiate operations at the Clearwater State Fish Hatchery in Idaho and to expand operations at seven other hatcheries. The Bonneville Power Administration (BPA) reimburses the U.S. Treasury for expenditures to implement the Lower Snake River Compensation Plan.

Mr. Chairman, one of the budget proposals relates to the Federal Aid in Fish Restoration, or Dingell-Johnson, program that provides financial assistance to States for the conservation, management, and restoration of sport fish resources. Recent amendments included in the Deficit Reduction Act of 1984 expanded the source of revenue available as grants to states under this program by increasing the excise tax on fishery equipment and diverting other existing sources of revenue to this program. The FY 1986 budget will make available the increased excise taxes from fishing equipment, thus providing an additional projected $6.0 million for grants. However, in an effort to reduce overall Federal spending, the 1986 budget does not include a request for other revenues generated from import duties on yachts and pleasure boats and the motorboat fuel tax. These funds will continue to be deposited in the Aquatic Resources Trust Fund as provided in the Deficit Reduction Act. The 1986 budget also proposes appropriation language to make revenues in the account subject to the annual appropriation process.

I have identified endangered species as an important thrust because I believe our proposed budget for this activity is an example of maintaining level funding while focusing attention on high priority species. We have identified six species of marine turtles for recovery activities that will lead to the development of management and protection strategies. A total increase of $392,000 is requested to implement actions such as nesting beach surveys, a computerized tag registry, and studies of movement and seasonal distribution. At the same time, sufficient progress has been achieved on captive propagation contract work for the peregrine falcon and a habitat conservation plan for Key Largo will be completed during FY 1985, allowing an offsetting decrease in Federal funding (-$392,000).

Savings of $5.6 million from the FY 1985 appropriation that the Service will achieve by continuing the President's management improvement program initiated in FY 1985 are also an important aspect of the FY 1986 budget proposal. A part of the savings ($-939,000) will be achieved through the Service's grade bulge reduction program designed to reduce through attrition the number of GS/GM 11 through 15 positions. Administrative/headquarters reductions such as Departmental consolidations, streamlining review procedures and functions, and changes to the Federal pay schedule constitute the remainder of the savings identified for FY 1986.

Mr. Chairman, we have also requested decreased funding for several one time studies conducted in FY 1985 or in areas where progress has been sufficient to allow a reduced level of effort. For example, the demonstration project that provided funding to states to test methods of mitigating the effects of acidified surface waters will not require funding in FY 1986 (-$1.96 million). Service research activities to monitor and analyze the effectiveness of techniques used by the States in this program will continue.

Similar reductions are requested in areas such as: completion of public use displays or exhibits on refuges (-$207,000); quantification of refuge water rights at a reduced level (-$143,000); carrying out Alaska comprehensive refuge planning at a reduced level (-$225,000); completion of a study of Federal fish production needs and plans (-$245,000); and reduction of Federal funding related to Des Plaines wetlands restoration project (-$280,000).

RESOURCE MANAGEMENT

The FY 1986 budget continues the remaining Service activities in Resource Management at the FY 1985 program level and I would like to highlight a few of these areas for you.

As mentioned previously, the Accelerated Refuge Maintenance Management (ARMM) program is designed to increase maintenance funding for the refuge system. In 1986, ARMM will be funded at $17.2 million bringing to $49.0 million the total funding that has been provided by this initiative to improve the condition of refuge facilities and habitat. Another activity retained in this budget addresses the inventory that examined refuge problems caused by such factors as pollutants, land uses, public uses, exotic species, and development projects. The Service will direct approximately $4.9 million in 1986 to address these problems through actions including habitat improvement projects, water quality control, development of public interpretation/awareness programs and wildlife or ecological studies. The combined efforts of the ARMM thrust and the resource problems reinforce the Administration's commitment to proper stewardship of the Nation's wildlife resources.

Mr. Chairman, I am pleased to report, with respect to the Cooperative Research Unit program, that we will continue to seek consolidations of units where agreement can be reached with all cooperators. We anticipate that consolidated units will be achieved in 16 States by the end of fiscal 1985 and negotiations will continue with the remaining states that have separate fish and wildlife units.

The Endangered Species Section 6 grants to States are proposed at the FY 1985 level of $3.9 million in recognition of the important role the States maintain in the development of substantive programs for Endangered Species. Based on past funding requests, our current estimates are that this level of funding will provide approximately 185 projects for an estimated 145 species.

Environmental contaminant monitoring and research activities will continue in FY 1986 with emphasis on pesticide and toxic chemical monitoring in coastal wetlands, prairie potholes, and other geographic areas. Other activities will include assessment of contaminants on refuges, especially along the Gulf Coast, Upper Mississippi and Great Lakes; and analysis of samples from the National Contaminant Biomonitoring Program. The Habitat Resources Program will also continue efforts initiated in FY 1985 to address the complex problems affecting resources of the Chesapeake Bay.

CONSTRUCTION AND ANADROMOUS FISH

The FY 1986 budget request of $5.6 million for construction continues the Service's dam safety program, provides priority health and safety construction projects on Service field stations, and allows funding for advance planning. The dam safety program includes funding for biennial reinspections of dams on Service facilities ($166,000), preparation of emergency action plans ($88,000), and repairs or related actions on several high and significant hazard dams ($1.8 million). Other construction provides correction of health or safety hazards on two refuges ($1.4 million) and one research laboratory ($75,000). Projects at two national fish hatcheries are required to meet fish production responsibilities for Great Lakes trout and Pacific anadromous fishery resources ($1.1 million). Advanced planning to provide completion of pre-construction design and planning will be continued ($994,000).

We have not requested funding in fiscal 1986 for the Anadromous Fish Grant program. These projects should be supported by the states which benefit from them. Numerous examples can be provided of effective state and interstate cooperation in achieving the objectives of the Anadromous Fish Grant program to conserve, develop and enhance anadromous fishing resources. Due to the severe nature of our national fiscal deficit, and since the grants provide benefits primarily to the states, additional Federal funding has not been proposed for these grants for FY 1986.

LAND ACQUISITION

Mr. Chairman, our land acquisition funding request for fiscal year 1986 is $1.5 million to provide the necessary staff and technical support to complete obligation of previous appropriations. Between FY 1981 and FY

1985, $176.5 million was appropriated from the Land and Water Conservation Fund for the Fish and Wildlife Service's land acquisition needs. I have noted in the earlier portion of my statement how funds have been used from the Land and Water Conservation Fund during this period to acquire additional refuge lands. However, many of the acquisition projects have yet to be completed, and the requested acquisition management funds are needed for administrative costs such as title work, appraisals, and closing actions on the remaining projects.

MIGRATORY BIRD CONSERVATION ACCOUNT

No appropriation is requested from the Wetlands Loan Advance; however, receipts from the sale of Duck Stamps are estimated at $16.4 million. This level of funding will allow acquisition of 18,500 acres of essential migratory waterfowl habitat in fiscal year 1986.

PERMANENT AND TRUST FUNDS

In addition to the changes in the Sport Fish Restoration Account that I have already discussed, we have included a new permanent account this year. The Appropriation Act for FY 1985 directed establishment of a special account for deposit of rents and other charges collected for occupancy of government-owned quarters. In addition, an increase of $26.6 million in estimated receipts is anticipated in payments to States under the Pittman-Robertson program. Contributed funds for the sea lamprey program will also increase.

FY 1985 SUPPLEMENTAL

We have proposed supplemental appropriation language that would decrease the level of Youth Conservation Corps program the Service is required to conduct in FY 1985. Although we believe the YCC program provides an excellent opportunity for young people to learn about conservation while working on projects that benefit the Service, the age and experience level of the enrollees limit the tasks that they can undertake. For example, safety restrictions prohibit allowing most enrollees to perform maintenance projects that require use of power equipment or motor vehicles. We are proposing to reduce the level from $3.3 million to $1.3 million so that the Service will be able to use funds to perform the more complex and higher priority projects that require more skilled labor than the YCC program provides.

PROPOSED RESCISSION

Finally, Mr. Chairman, the budget that we have submitted a proposed rescission of $3.9 million from the FY 1985 appropriation. This rescission, in accordance with Section 2901 of the Deficit Reduction Act of 1984, provides for savings by reducing or deferring expenditures for travel, motor vehicles, publications, public affairs, and consulting services.

Mr. Chairman, this concludes my prepared testimony. I would be pleased to answer any questions you may have.

DEPARTMENT OF THE INTERIOR
FY 1986 President's Budget
(in thousands of dollars)

Bureau/Account/Activity/Subactivity	FY 1984 Actual	FY 1985 Enacted	Proposed Supplementals	Proposed Rescissions	FY 1985 Estimate	FY 1986 Estimate
U. S. FISH AND WILDLIFE SERVICE						
--Discretionary--						
Resource Management						
Habitat Resources						
Field Operations	18,286	23,767			23,767	21,201
National Wetlands Inventory	3,737	5,393			5,393	5,338
Research and Development	14,016	15,409			15,409	15,201
Cooperative research units	4,939	4,679			4,679	4,624
Subtotal	40,978	49,248	0	0	49,248	46,364
Wildlife Resources						
Refuge operations and maintenance	92,011	100,741			100,741	99,203
Law enforcement and protection	11,673	10,045			10,045	9,831
Appropriation, permanent	0	250			250	250
Population management	18,948	22,527			22,527	22,245
Research and Development	12,451	12,291			12,291	12,788
Youth Conservation Corps	0	0			0	0
Alaska Subsistance Grants	0	980			980	980
Subtotal	135,083	146,834	0	0	146,834	145,297
Fishery Resources						
Hatchery operations and maintenance	23,222	24,532			24,582	23,969
Lower Snake River Compensation Plan	3,737	4,499			4,499	5,649
Refuge operations and maintenance	2,181	2,173			2,173	2,146
Law enforcement and protection	329	2,143			2,143	2,115
Population management	1,733	1,723			1,723	1,691
Research and Development	10,805	11,119			11,069	10,906
Youth Conservation Corps	0	0			0	0
Subtotal	42,007	46,189	0	0	46,189	46,476

ATTACHMENT B

DEPARTMENT OF THE INTERIOR
FY 1986 President's Budget
(in thousands of dollars)

Bureau/Account/Activity/Subactivity	FY 1984 Actual	FY 1985 Enacted	Proposed Supplementals	Proposed Rescissions	FY 1985 Estimate	FY 1986 Estimate
Endangered Species						
Listing	2,595	2,967			2,967	2,924
Law enforcement and protection	6,186	7,363			7,363	7,341
Consultation	2,575	2,593			2,593	2,552
Recovery	4,714	5,985			5,985	5,869
Research and Development	4,135	4,237			4,237	4,252
Cooperation with states	2,000	3,920			3,920	3,920
Subtotal	22,205	27,065	0	0	27,065	26,858
General Administration Executive						
Direction	7,417	7,214			7,214	7,180
Administrative services	12,224	11,762			11,762	9,869
Related support services	17,620	17,076			17,076	16,941
Subtotal	37,261	36,052	0	0	36,052	33,990
Proposed rescission	0	0		(3,869)	(3,869)	0
Appropriation, current	277,534	305,138	0	(3,869)	301,269	298,735
Appropriation, permanent	0	250	0	0	250	250
Total, Resource Management	277,534	305,388	0	(3,869)	301,519	298,985

Construction and Anadromous Fish

Bureau/Account/Activity/Subactivity	FY 1984 Actual	FY 1985 Enacted	Proposed Supplementals	Proposed Rescissions	FY 1985 Estimate	FY 1986 Estimate
Construction and rehabilitation						
Refuges	18,470	14,180			14,180	1,359
Hatcheries	1,970	167			167	1,156
Fishery Research facilities	1,337	1,421			1,421	0
Dam safety	1,160	3,532			3,532	2,029
Wildlife research facility	3,141	0			0	75
Capital development & maintenance management	1,703	980			980	994
Anadromous fish grants	4,000	4,018			4,018	0
Proposed rescission	0	0		(40)	(40)	0
Total, Construction and Anadromous Fish	31,781	24,298	0	(40)	24,258	5,[illegible]13

(Dollar amounts in thousands)

Bureau/Appropriation	1985 Estimate		1986 Estimate		Change from 1985	
	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount
Other:						
Reimbursements and allocations from other accounts	435	0	415	0	(20)	0
TOTAL, FISH AND WILDLIFE SERVICE	6,617	588,233	6,550	516,232	(67)	(72,001)
NATIONAL PARK SERVICE						
Appropriations:						
Operation of the Nat'l Park System (ONPS)	14,668	612,858	14,489	585,685	(179)	(27,173)
National Recreation and Preservation	285	11,111	230	9,259	(55)	(1,852)
Construction	624	111,442	613	49,456	(11)	(61,986)
JFK Center for the Performing Arts	78	4,529	78	4,529	0	0
Land Acquisition	207	147,216	207	11,275	0	(135,941)
Historic Preservation Fund	0	25,480	0	0	0	(25,480)
Visitor Facilities Fund	0	5,880	0	8,500	0	2,620
Illinois and Michigan Canal National Heritage Corridor Commission	0	245	0	0	0	(245)
Jefferson National Expansion Memorial Commission	0	73	0	0	0	(73)
National Capital Region Arts and Cultural Affairs	0	0	0	4,900	0	4,900
Subtotal, appropriations	15,862	918,834	15,617	673,604	(245)	(245,230)
roposed 1985 Supplementals:						
ONPS - (pay raise) - to be derived by transfer from 'Construction (Trust Fund)', National Park Service		[10,700]		[0]		[(10,700)
and Acquisition - (fire suppression) - to derived by transfer from 'Construction (Trust Fund)', National Park Service		[3,216]		[0]		[(3,216)
nstruction (Trust Fund) -		[(38,172)]		[0]		[38,172]
oposed 1985 Rescissions:						
NPS - Section 2901	0	(8,598)	0	0	0	8,598
at'l Rec & Pres - Section 2901	0	(94)	0	0	0	94
onstruction - Section 2901	0	(397)	0	0	0	397
and Acquisition - Section 2901	0	(52)	0	0	0	52
Subtotal, rescissions	0	(9,141)	0	0	0	9,141

(Dollar amounts in thousands)

Bureau/Appropriation	1985 Estimate FTE/T	1985 Estimate Amount	1984 Estimate FTE/T	1984 Estimate Amount	Change from 1985 FTE/T	Change from 1985 Amount
FISH AND WILDLIFE SERVICE						
Appropriations:						
Resource Management	5,589	305,138	5,547	298,735	(42)	(6,403)
Construction	138	24,298	138	5,613	0	(18,685)
Land Acquisition	63	63,218	58	1,500	(5)	(61,718)
Migratory Bird Conservation Account - Advance	0	21,266	0	0	0	(21,266)
National Wildlife Refuse Fund - Payments in Lieu of Taxes	0	5,645	0	5,645	0	0
Sport Fish Restoration	0	0	26	44,000	26	44,000
Subtotal, appropriations	5,790	419,565	5,769	355,493	(21)	(64,072)
Proposed 1985 Supplementals:						
Construction - (fire suppression) - to be derived by transfer from 'Construction (Trust Fund)', National Park Service		[4,000]		[0]		[(4,000)
Proposed 1985 Rescissions:						
Resource Management - Section 2901	0	(3,869)	0	0	0	3,869
Construction - Section 2901	0	(40)	0	0	0	40
Subtotal, rescissions	0	(3,909)	0	0	0	3,909
Permanent Accounts:						
Resource Management	0	250	0	250	0	0
Migratory Bird Conservation Account	157	16,376	157	16,400	0	24
National Wildlife Refuse Fund	26	7,040	26	7,040	0	0
Miscellaneous Permanent Appropriations						
Federal Aid in Fish Restoration	26	38,086	0	0	(26)	(38,086)
Federal Aid in Wildlife Restoration	74	85,872	74	111,600	0	25,728
Proceeds from Sales	0	200	0	200	0	0
Subtotal, Misc Permanent Appropriations	100	124,158	74	111,800	(26)	(12,358)
Operation and Maintenance of Quarters	16	20,915	16	21,084	0	169
Contributed Funds	93	3,838	93	4,165	0	327
Subtotal, permanent accounts	392	172,577	366	160,739	(26)	(11,838)

ATTACHMENT C

U.S. FISH AND WILDLIFE SERVICE

The U.S. Fish and Wildlife Service conserves, protects and enhances fish and wildlife and their habitats, with principal responsibilities and authority for migratory birds, threatened and endangered species, certain marine mammals, international resources and wildlife on lands under Service control.

SUMMARY OF BUREAU APPROPRIATIONS

(Dollar amounts in thousands)

Comparison of 1986 Estimate with 1985 Estimate:

	1985 Estimate FTE/T	1985 Estimate Amount	1986 Estimate FTE/T	1986 Estimate Amount	Change from 1985 FTE/T	Change from 1985 Amount
Appropriations:						
Resource Management	5,589	305,138	5,547	298,735	-42	-6,403
Construction	138	24,298	138	5,613	...	-18,685
Land Acquisition	63	63,218	58	1,500	-5	-61,718
Migratory Bird Conservation Account - Advance	...	21,266	...	...	...	-21,266
National Wildlife Refuge Fund - Payments in Lieu of Taxes	...	5,645	...	5,645	...	...
Sport Fish Restoration	...	...	26	44,000	+26	+44,000
Subtotal, Appropriations	5,790	419,565	5,769	355,493	-21	-64,072
Proposed 1985 Rescissions:						
Resource Management (Section 2901)	...	-3,869	...	...	...	+3,869
Construction (Section 2901)	...	-40	...	...	...	+40
Proposed Supplementals/Transfers:						
Fire Suppression (Construction) 1/	...	(4,000)	...	...	...	(4,000)
Permanents and Trusts:						
Resource Management	...	250	...	250	...	...
Federal Aid in Fish Restoration	26	38,086	...	...	-26	-38,086
Federal Aid in Wildlife Restoration	74	85,872	74	111,600	...	+25,728
Migratory Bird Conservation Account	157	16,376	157	16,400	...	+24
National Wildlife Refuge Fund	26	7,040	26	7,040	...	...
Proceeds from Sales	...	200	...	200	...	...
Contributed Funds	93	3,838	93	4,165	...	+327
Operations & Maintenance of Quarters	16	20,915	16	21,084	...	+169
Reimbursements	435	...	415	...	-20	...
Subtotal, Permanent and Trusts	827	172,577	781	160,739	-46	-11,838
TOTAL, U.S. FISH AND WILDLIFE SERVICE	6,617	588,233	6,550	516,232	-67	-72,001

1/ To be derived by transfer from National Park Service, Construction (Trust Fund).

Comparison of 1986 Estimate with 1986 Base Budget:

	1986 Base Budget FTE/T	1986 Base Budget Amount	1986 Estimate FTE/T	1986 Estimate Amount	Change from Base FTE/T	Change from Base Amount
Appropriations:						
Resource Management	5,547	299,545	5,547	298,735	...	-810
Construction	138	4,018	138	5,613	...	+1,595
Land Acquisition	58	...	58	1,500	...	+1,500
Migratory Bird Conservation Account - Advance.	...	...	...	...	...	...
National Wildlife Refuge Fund - Payments in Lieu of Taxes	...	5,645	...	5,645	...	...
Sport Fish Restoration	26	38,086	26	44,000	...	+5,914
Subtotal, Appropriations	5,769	347,294	5,769	355,493	...	+8,199
Permanents and Trusts	366	134,491	366	160,739	...	+26,248
Reimbursements	415	...	415	...	...	...
Subtotal, Permanents and Advances	781	134,491	781	160,739	...	+26,248
TOTAL, U.S. FISH AND WILDLIFE SERVICE	6,550	481,785	6,550	516,232	...	+34,447

TABULAR INFORMATION AND HIGHLIGHTS OF BUDGET CHANGES

(By Appropriation)

APPROPRIATION: RESOURCE MANAGEMENT

Summary of Requirements

(Dollar amounts in thousands)

	FTE/T	Amount	FTE/T	Amount
Appropriation currently available, 1985	...	...	5,589	305,138
Adjustments to base:				
Total adjustment for 1985 pay increase		+6,154	...	...
Proposed 1986 pay cut	...	-6,594	...	...
Improved position management initiative	...	- 939	...	...
FY 1986 10% reduction in headquarters and administrative expenditures	-42	-4,214	...	...
Total, Adjustments to base			-42	-5,593
1986 Base Budget				299,545
Program changes (Changes to base budget, detailed below)				- 810
Total Requirements (1986 Estimate)			5,547	298,735

Comparison by Activity/Subactivity

	1985 Appropriation		1986 Base Budget		1986 Estimate		Change from Base	
	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount
Habitat Resources:								
Field Operations	485	23,767	485	23,441	485	21,201	...	-2,240
National Wetland Inventory	41	5,393	41	5,338	41	5,338	...	...
Research and Development	305	15,409	305	15,201	305	15,201	...	...
Cooperative Units	80	4,679	80	4,624	80	4,624	...	...
Subtotal, Habitat Resources	911	49,248	911	48,604	911	46,364	...	-2,240
Wildlife Resources:								
Refuge Oper. & Maintenance	2,008	100,761	2,005	99,428	2,005	98,853	...	-575
Law Enforcement & Protection	197	10,045	195	9,831	195	9,831	...	...
Payment of Rewards (Permanent)	...	(250)	...	(250)	...	(250)	...	...
Population Management	363	22,527	359	22,245	359	22,245	...	...
Research and Development	272	12,291	270	12,038	270	13,138	...	+1,100
Alaska Subsistence	...	980	...	980	...	980	...	...
Subtotal, Wildlife Resources	2,840	146,584	2,829	144,522	2,829	145,047	...	+525
Fishery Resources:								
Hatchery Oper. & Maintenance	496	24,382	494	24,214	494	23,969	...	-245
Lower Snake River	14	4,499	14	4,499	14	5,649	...	+1,150
Refuge Oper. & Maintenance	35	2,173	35	2,146	35	2,146	...	...
Law Enforcement & Protection	42	2,143	42	2,115	42	2,115	...	...
Population Management	50	1,723	50	1,691	50	1,691	...	...
Research and Development	250	11,069	250	10,906	250	10,906	...	...
Subtotal, Fishery Resources	887	46,189	885	45,571	885	46,476	...	+905
Endangered Species:								
Listing	57	2,967	58	2,924	58	2,924	...	...
Law Enforcement & Protection	150	7,363	150	7,341	150	7,341	...	...
Consultation	76	2,593	74	2,552	74	2,552	...	...
Recovery	57	5,985	58	5,869	58	5,869	...	...
Research and Development	65	4,237	65	4,252	65	4,252	...	...
Cooperation with States	...	3,920	...	3,920	...	3,920	...	...
Subtotal, Endangered Species	405	27,065	405	26,858	405	26,858	...	...
General Administration:								
Executive Direction	148	7,216	148	7,180	148	7,180	...	...
Administrative Services	398	11,762	369	9,869	369	9,869	...	...
Related Support Services	...	17,074	...	16,941	...	16,941	...	...
Subtotal, Gen. Administration	546	36,052	517	33,990	517	33,990	...	...
TOTAL APPROPRIATION	5,589	305,138	5,547	299,545	5,547	298,735	...	-810

APPROPRIATION: CONSTRUCTION (Cont'd)

Highlights of Budget Changes

	Change from Base FTE/T	Amount
Construction and Rehabilitation		
Refuges	...	+1,359
The proposed increase will fund projects to protect health and safety of visitors and employees on two refuges (+1,359).		
Hatcheries	...	+1,156
Additional funds are necessary to restore and maintain high priority Great Lakes trout resources at Iron River NFH (+957) and West Coast anadromous fish resources at Coleman NFH (+199).		
Dam Safety	...	+2,029
The request includes funds to conduct intermediate inspections to identify dams in need of repair and to prepare emergency action plans for significant hazard dams (+254). An additional amount is requested to implement either high priority repairs or planning and design of repairs on five dams with identified structural or other problems (+1,775).		
Wildlife Research Facilities	...	+75
The increase will provide fire protection and safety improvements at Patuxent WRC (+75).		
Capital Development and Advance Planning	...	+994
The request provides for continuation of the Advance Construction Planning process initiated in FY 1984 (+994).		
Anadromous Fish Grants	...	-4,018
With the enactment of provisions to expand the Federal Aid in Fish Restoration program, work previously carried out through the anadromous fish grants program now may be accomplished through the Sport Fish Restoration Account.		

APPROPRIATION: LAND ACQUISITION

Summary of Requirements

(Dollar amounts in thousands)

	FTE/T	Amount
Appropriation currently available, 1985	58	63,218
Adjustments to Base:	...	-63,218
1986 Base Budget	58	...
Program changes (Changes to base budget, detailed below)	...	+1,500
Total Requirements (1986 Estimate)	58	1,500

Comparison by Activity/Subactivity

	1985 Appropriation		1986 Base Budget		1986 Estimate		Change from Base	
	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount
Acquisition Management	58	1,470	58	...	58	1,500	...	+1,500
Specifically Legislated	...	8,820	...	...	...	...	...	...
Endangered Species Act	...	31,605	...	...	...	...	...	...
Refuge Recreation	...	1,666	...	...	...	...	...	...
FWS Act of 1956	...	19,657	...	...	...	...	...	...
TOTAL APPROPRIATION	58	63,218	58	...	58	1,500	...	+1,500

Highlights of Budget Changes

	Change from Base FTE/T	Amount
The proposed increase will permit the continuation of acquisition management activities to address high priority acquisition needs for which funds were appropriated previously (+1,500).	...	+1,500

DEPARTMENT OF THE INTERIOR
FY 1986 President's Budget
(in thousands of dollars)

Bureau/Account/Activity/Subactivity	FY 1984 Actual	FY 1985 Enacted	Proposed Supplementals	Proposed Rescissions	FY 1985 Estimate	FY 1986 Estimate
Migratory Bird Conservation Account						
Advance Appropriation	7,000	21,266			21,266	0
Receipts	13,999	16,376			16,376	16,400
Total, Migratory Bird Conservation Account	20,999	37,642	0	0	37,642	16,400
Development and Operation of Recreation Facilites						
Base Program	0	0			0	0
National Wildlife Refuge Fund						
Payments in Lieu of Taxes	5,760	5,645			5,645	5,645
Total, National Wildlife Refuge Fund	5,760	5,645	0	0	5,645	5,645
Land Acquisition and State Acquisition						
Federal Acquisition						
Acquisitions - non wet-lands	50,797	61,748			61,748	0
Acquisition management	1,500	1,470			1,470	1,500
Acquisitions - wetlands	0	0			0	0
State s[illegible] - wetlands	0	0			0	0
Total	52,297	63,219	0	0	63,218	1,500
Sport Fish Restoration Account						
Payments to States	0	0			0	41,360
Administration	0	0			0	2,640
Total, Sport Fish Restoration Account	0	0	0	0	0	44,000
Total, Discretionary	388,371	436,191	0	(3,909)	432,282	372,143

DEPARTMENT OF THE INTERIOR
FY 1986 President's Budget
(in thousands of dollars)

Bureau/Account/Activity/Subactivity	FY 1984 Actual	FY 1985 Enacted	Proposed Supplementals	Proposed Rescissions	FY 1985 Estimate	FY 1986 Estimate
--Mandatory--						
National Wildlife Refuge Fund						
Permanent, indefinite	7,057	7,040			7,040	7,040
Total, National Wildlife Refuge Fund	7,057	7,040	0	0	7,040	7,040
Miscellaneous Permanent Appropriations		[illegible]				
Miscellaneous Permanent Appropriations	127,690	[illegible] 105,700			124,158	111,800
Operations and Maintenance of Quarters						
Appropriation, current	0	0			20,915	0
Appropriation, permanent	0	0			0	21,084
Total, Operations and Maintenance of Quarters	0	0	0	0	20,915	21,084
Trust Funds						
Contributed Funds..(permanent, indefinite)	3,537	4,213			3,838	4,165
Total, Mandatory	138,284	[illegible] ~~116,953~~	0	0	135,951	144,089
Total, Fish and Wildlife Service	536,655	[illegible] ~~563,141~~	0	(3,909)	508,233	516,232

DEPARTMENT OF THE INTERIOR
FY 1986 President's Budget
Budget Account Listing
(in thousands of dollars)

BUREAUS/OFFICES ACCOUNTS	Budget Authority			Outlays		
	FY 1984	FY 1985	FY 1986	FY 1984	FY 1985	FY 1986
FISH AND WILDLIFE SERVICE						
Discretionary						
Resource management						
Appropriation, current	277,534	305,138	298,735	276,678	295,881	296,596
Proposed rescission		(3,869)			(3,752)	(117)
Appropriation, permanent	0	250	250	0	250	250
Total, Resource management	277,534	301,519	298,985	276,678	292,379	296,729
Construction	31,781	24,298	5,613	15,683	29,090	23,245
Proposed rescission		(49)			(40)	
Land acquisition	52,297	63,218	1,500	20,389	40,718	32,000
Migratory bird conservation account (MBCA)						
Appropriation, current	7,000	21,266	0	7,000	21,266	0
Appropriation, permanent	13,999	16,376	16,400	12,978	16,376	16,400
Total, MBCA	20,999	37,642	16,400	19,978	37,642	16,400
National wildlife refuge fund (appn, current)	5,760	5,645	5,645	5,760	5,645	5,645
Sport fish restoration	0	0	44,000	0	0	42,680
Total, Discretionary	388,371	432,282	372,143	338,488	405,434	416,699
Mandatory						
National wildlife refuge fund (appn, perm)	7,057	7,040	7,040	6,897	6,955	6,955
Operations and maintenance of quarters	0	20,915	21,084	0	20,695	21,054
Miscellaneous permanent appropriations	127,690	124,158	111,800	148,626	148,200	120,200
Contributed funds	3,537	3,838	4,165	3,852	3,573	3,903
Total, Mandatory	138,284	155,951	144,089	159,375	179,423	152,112
Total, FISH AND WILDLIFE SERVICE	526,655	588,233	516,232	497,863	584,857	568,811

APPROPRIATION: SPORT FISH RESTORATION (Cont'd)

Comparison by Activity/Subactivity

	1985 Appropriation		1986 Base Budget		1986 Estimate		Change from Base	
	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount
Payments to States..	...	...	...	35,060	...	41,389	...	+6,329
Administration	...	...	26	3,026	25	2,611	...	- 415
TOTAL APPROPRIATION	...	...	26	38,086	26	44,000	...	+5,914

Highlights of Budget Changes

	Change from Base	
	FTE/T	Amount
The request for an annual appropriation for the new Sport Fish Restoration Account includes revenues derived from the 10 percent excise tax on certain sport fish tackle and equipment. This activity was previously funded through the Federal Aid in Fish Restoration Account.		
Payment to States:		
These funds increase federal financial assistance to states for the restoration and conservation of sport fishery (+6,329).	...	+6,329
Administration:		
These funds provide nationwide program administration and initiate special projects that will benefit the states' fishery management programs. The decrease results from completion of the 1985 rotenone registration project and reduced funding for the National Survey of Fishing, Hunting and Wildlife.	...	- 415

APPROPRIATION: PERMANENTS AND TRUSTS

Summary of Requirements

(Dollar amounts in thousands)

	FTE/T	Amount
Amounts currently available	392	172,577
Adjustments to Base	-26	-38,086
1986 Base Budget	366	134,491
Program changes (Changes to base budget, detailed below).	...	+26,248
Total Requirements (1986 Estimate)	366	160,739

Comparison by Activity/Subactivity

	1985 Appropriation		1986 Base Budget		1986 Estimate		Change from Base	
	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount
Federal Aid in Fish Restoration .1/	26	38,086	...	...	...	...	...	...
Federal Aid in Wildlife Restoration	74	85,872	74	85,872	74	111,600	...	+25,728
Migratory Bird Conservation Acct.	157	16,376	157	16,376	157	16,400	...	+24
Contributed Funds	93	3,838	93	3,838	93	4,165	...	+327
Operation and Maintenance of Quarters	16	20,915	16	20,915	16	21,084	...	+169
All other	26	7,490	26	7,490	26	7,490	...	...
TOTAL APPROPRIATION	392	172,577	366	134,491	366	160,739	...	+26,248

1/ The budget requests an annual appropriation for the new Sport Fish Restoration Account. The reduction of $38,086 thousand in permanent and trust appropriations is offset by the increase of $38,036 thousand in the Sport Fish Restoration Account.

APPENDIX K

FISH AND WILDLIFE SERVICE

FY 1986 CONSTRUCTION PROGRAM

Budget Authority
($ in thousands)

State Station	Project Description	Total Estimated Cost	Available Through FY 1985	FY 1986 Request
	NATIONAL WILDLIFE REFUGES			
SOUTH CAROLINA				
Cape Romain NWR	Rehabilitate boat dock.	330	0	$330
Subtotal, SOUTH CAROLINA				$330
VIRGINIA				
Great Dismal Swamp NWR	Construct administrative complex.	1,029	0	$1,029
Subtotal, VIRGINIA				$1,029
TOTAL, National Wildlife Refuges				$1,359
	NATIONAL FISH HATCHERIES			
CALIFORNIA				
Coleman NFH	Rehabilitate existing fish barrier.	199	0	$199
Subtotal, CALIFORNIA				$199
WISCONSIN				
Iron River NFH	Completion of Schacte Creek unit; construction of residence at Middle Creek unit.	957	6,780	$957
Subtotal, WISCONSIN				$957
TOTAL, National Fish Hatcheries				$1,156
	WILDLIFE RESEARCH LABORATORIES			
MARYLAND				
Patuxent WRC	Fire protection and safety improvements.	75	0	$75
Subtotal, MARYLAND				$75
TOTAL, Wildlife Research Laboratories				$75

ATTACHMENT D

Fish and Wildlife Service

Deficit Reduction Section 2901
(Dollars in Thousands)

Appropriation: Resource Management

Category	1984 Actual	1985 Base	Proposed Rescission	1985 Revised Estimate
Motor Vehicles	6,757	5,525	-1,332	4,193
Travel, Transportation of Persons	12,754	12,307	-1,606	10,701
Public Affairs	1,380	1,400	-70	1,330
Publishing, Printing	1,836	2,222	-382	1,840
Consultant Svcs	403	732	-519	213
Total	23,130	22,186	-3,909	18,277

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

Budget Supplemental Requesting Change in Appropriation Language

The provision of Public Law 98-473, regarding projects to be carried out by the Youth Conservation Corps, is hereby amended by deleting "$3,300,000" and inserting in lieu thereof "$1,300,000."

U.S. Fish and Wildlife Service
Justification for Proposed Supplemental to Public Law 98-473

Background:

Specific funding for the Youth Conservation Corps program was deleted from the Administration's budget beginning in FY 1982 as part of the overall effort to reduce Federal expenditures. That year, Congress provided for continuation of the program in the Fish and Wildlife Service within available funds by establishing a required program level of "up to $3,000,000 but not less that $1,000,000...." In FY 1983, Congress appropriated specific funding to the Forest Service for Youth Program and directed a transfer of $3,300,000 to the Fish and Wildlife Service. The Appropriations Act for FY 1984 did not provide additional funding, but directed the continuation of the Youth Corps at a level of not less than $3,400,000.

The Fish and Wildlife Service was again directed to conduct a Youth Conservation Corps program at a minimum level of $3,300,000 in FY 1985; however, no additional funding was provided.

Justification:

The Youth Conservation Corps program was established to provide young people with both environmental education and work experience. Because of the age and experience level of the enrollees, they cannot participate in many of the required maintenance activities on Service facilities including those that use power tools or heavy equipment. Although the Service supports the youth program and receives benefits from enrollee participation, the maintenance projects that are conducted often are not the highest priority needs identified for Service field stations. Funding that is required to perform more complicated or higher priority maintenance activities may have to be diverted in order to continue the youth program at a mandated minimum level. The Service's maintenance funding has been a principal thrust of the Administration's budget request for the past two fiscal years; however, the continued absorption of the Youth Conservation Corps will diminish the effectiveness of the accelerated maintenance funding.

The Service supports a budget that provides flexibility to manage the fish and wildlife resources within approved funding levels while providing for youth programs as opportunities arise. This can best be accomplished by allowing the Service to identify the highest priority maintenance needs and allocate funds to those needs first and then implement the Youth Conservation Corps program at a level and location suitable to the abilities of the enrollees and the requirements of the Service. Eliminating a required funding level, while directing continuation of the program at the Service's discretion, would allow achievement of both objectives.

United States Department of the Interior

NATIONAL PARK SERVICE
NATIONAL CAPITAL REGION
1100 OHIO DRIVE, S. W.
WASHINGTON, D.C. 20242

28 MAR 1985

Honorable Robert T. Stafford
Chairman, Committee on Environment
  and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your letter of February 25 signed jointly by you and the Honorable Lloyd Bentsen concerning the requirement of your Committee to make a report to the Committee of the Budget in order to make recommendations of Fiscal Year 1986 spending levels for the programs within your Committee's jurisdiction.

We are pleased to enclose a copy of approved testimony with the requested budget detail on the 1986 Fiscal Year budget request for the John F. Kennedy Center for the Performing Arts.

We hope the enclosed material satisfies the need of your committee in making your recommendation to the Budget Committee.

Sincerely,

Manus J Fish J.

Regional Director, National Capital Region

Enclosures

STATEMENT OF MANUS J. FISH, JR., REGIONAL DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, TO DISCUSS THE FISCAL 1986 BUDGET REQUEST FOR THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM PLEASED TO APPEAR BEFORE THIS COMMITTEE TO DISCUSS THE FISCAL 1986 BUDGET REQUEST FOR THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS.

SECTION 10 OF THE PUBLIC BUILDINGS AMENDMENTS OF 1972 DIRECTED THE SECRETARY OF THE INTERIOR, ACTING THROUGH THE NATIONAL PARK SERVICE, TO PROVIDE MAINTENANCE, SECURITY, INFORMATION, INTERPRETATION, JANITORIAL, AND ALL OTHER SERVICES NECESSARY TO THE NONPERFORMING ARTS FUNCTION OF THE JOHN F. KENNEDY CENTER. THE SAME PROVISION AUTHORIZED FUNDS TO SUPPORT SUCH SERVICES THROUGH JUNE 1973. CONGRESS HAS PERIODICALLY EXTENDED THE AUTHORITY OF THE 1972 AMENDMENTS. $4,529,000 WAS APPROPRIATED FOR FISCAL YEAR 1985, FOR THE NONPERFORMING ARTS FUNCTION OF THE JOHN F. KENNEDY CENTER IN THE APPROPRIATION ACT FOR THE DEPARTMENT OF THE INTERIOR OF OCTOBER 12, 1984, PUBLIC LAW 98-473.

THE PRESIDENT'S 1986 BUDGET REQUEST OF $4,529,000 FOR THE KENNEDY CENTER MAINTAINS THE SAME LEVEL OF FUNDS AS THE FY 1985 APPROPRIATION. WITHOUT AN EXTENSION OF THE PRESENT AUTHORIZATION, THE NATIONAL PARK SERVICE CANNOT CONTINUE BEYOND SEPTEMBER 30, 1985, TO EXERCISE ITS RESPONSIBILITIES, AS REQUIRED BY LAW. THEREFORE, MR. CHAIRMAN, THE ADMINISTRATION STRONGLY RECOMMENDS THE AUTHORIZATION OF $4,529,000 REQUESTED IN THE BUDGET.

MR. CHAIRMAN, I WILL TRY TO ANSWER ANY QUESTIONS YOU AND ANY MEMBERS MAY HAVE.

3/15/85

National Park Service
John F. Kennedy Center for the Performing Arts

Program by Activities

The Park Management proposed funding level for FY 1986 is $4,529,000. This represents the National Park Service share of expenses for operating the Center. Attachment A, details the cost components by object class for this proposed funding level and the Kennedy Center Board share for each. The cost share formula applies to all non-performing arts functions except security, grounds maintenance, and visitor services. Further detail on specific projects included in the object classes for the proposed funding level is also provided in Attachment A(1).

Attachment B displays the 10-year cyclic maintenance program and nonrecurring maintenance projects.

The Park Management funding level for FY 1985 is $4,529,000, which represents the National Park Service share of expenses and reflects the 2 percent Congressional reduction of $92,000. The impact of this reduction is displayed in Attachment C. Attachment D provides the FY 1985 shared and non-shared expenses, with an itemized list of FY 1985 utility costs and maintenance contracts in Attachment D(1).

The FY 1984 appropriation for the National Park Service share of expenses at the Kennedy Center was $4,542,000.

Economic Assumptions and Spendout Rate

We have built in a 5 percent inflation factor on the housekeeping service contract. All appropriated funds for NPS-Kennedy Center operations will be obligated in FY 1986.

Outyear Program Changes/Funding Levels

We project a consistent level of NPS operations at the Kennedy Center in future years.

Salaries and Expenses - FY 86 Compared to FY 85

	FY 85	FY 86
Full-time permanent positions -	70	68
Total compensable workyears (FTE's) -	78	77
Average GS grade -	6.32	6.36
Average GS salary -	$18,911	$18,060

The decrease of two permanent maintenance positions thru attrition will not affect the National Park Service ability to carry out its responsibilities at the Kennedy Center. The duties of one position will be absorbed by other members of the staff and the duties of the other position will be contracted out as needed.

Section 2901 - Omnibus Deficit Reduction Act

Section 2901 of the Omnibus Deficit Reduction Act was applied to all accounts in the National Park Service except where these specific reductions would result in an inability to carry out program responsibilities. In light of the size and nature of the National Park Service Kennedy Center operation, the Deficit Reduction Act was not applied since there is very little in the budget in the applicable areas of reduction, i.e. travel/transportation, publications, public affairs, motor vehicles, consulting services.

10 Percent Reduction in Administration

While the specifics of the FY 1986 10 percent cut in administration in the National Park Service have not been determined, they will be oriented toward the Operation of the National Park System appropriation, under which most of these services are provided. Administrative and support services for the NPS - Kennedy Center operation are provided through the National Capital Region, National Park Service, in accordance with FY 1982 Congressional action transferring funds for Common Program Services from the Kennedy Center appropriation to the National Park Service appropriation. Therefore, we do not anticipate any reduction in the Kennedy Center budget as a result of the 10 percent cut in administration.

45-524 O—85——32

Attachment A(1)

January 25, 1985

FY '86

Utilities and Maintenance Contracts

O/C			
23		Electricity	$ 1,635,000
		Telephones & Walkie Talkies	15,000
			1,650,000
25	C/M	Minor structural inspection	15,800
	M/R	Clean building overhang	22,700
	M/R	Replace ceiling tiles	11,400
	C/M	Replace vertical expansion joints	15,000
	C/M	Inspect & clean interior marble panels	17,600
		Roof repairs	50,000
	C/M	Replace vinyl floor tile	29,300
		Elevator & escalator maintenance	79,000
		Housekeeping*	868,400
		Pest Control	1,000
		Trash collection	8,000
		HVAC maintenance*	23,000
		HVAC computer maintenance	10,000
		Tour Assts. & Memorial Security	225,000
	C/M	Refinish, reseal & stain North & South Gallery floors	20,000
	C/M	Paint interior ceiling tile	17,000
	M/R	River Terrace marble replacement	133,100
		Miscellaneous contracts (inc. Elevator inspection, security system maintenance, carpet storage, office equipment maintenance, training, grounds equipment maintenance, etc.)	145,800
			1,692,100

*Reflects 5% increase for inflation

JOHN .. KENNEDY CENTER
FY '86

O/C No.		Shared Expenses K.C. Share 23.8%	 NPS Share 76.2%	Non-Shared Expenses Sole Responsibility of NPS*	Total
11.1	F/T Permanent	219,600	703,100	580,600	1,503,300
11.3	Career Seasonal	9,600	31,000		40,600
11.3	Part Time	5,900	18,900	87,400	112,200
11.3	Temporary	2,200	7,000	16,900	26,100
11.5	Other Personnel Comp.	17,800	57,000	27,000	101,800
12.1	Personnel Benefits	28,900	92,500	180,900	302,300
TOTAL PERSONNEL COSTS		284,000	909,500	892,800	2,086,300
21	Travel & Transp. Persons	2,000	4,000		6,000
23	Utilities	392,700	1,257,300		1,650,000
24	Printing & Reprod.	1,500	4,800		6,300
25	Other Services	345,300	1,121,800	225,000	1,692,100
26	Supplies & Materials	35,500	90,200	23,600	149,300
	TOTALS	1,061,000	3,387,600	1,141,400	5,590,000
	Less K.C. Share				-1,061,000
					4,529,000

*Security, grounds maintenance and visitor services are non-performing arts functions for which NPS is solely responsible.

Attachment B

Page No.
02/19/85

KENNEDY CENTER
CYCLIC AND NON-RECURRING MAINTENANCE PROGRAM

CYCLE	PROJ NO.	PROJ TITLE	*FY 84 EST AUTH ACTUAL	FY 85 EST AUTH ACTUAL	FY 86 EST AUTH ACTUAL	FY 87 EST AUTH ACTUAL	FY 88 EST AUTH ACTUAL	FY 89 EST AUTH ACTUAL	. FY 90 EST AUTH ACTUAL	REMARKS
1	011	ROOF REPAIRS	50.0 50.0 183.0	50.0 0.0 0.0	50.0 0.0 0.0	50.0 0.0 0.0	50.0 0.0 0.0	50.0 0.0 0.0	50.0 0.0 0.0	FUNDS PROGRAMMED EVERY YEAR TO MAINTAIN ROOF. DUE TO INCIDENCE OF LEAKAGE IN TERRACE CANOPY, CONTRACT AWARDED TO CORRECT PROBLEM. DUE TO MAGNITUDE OF FY 84 REPAIRS NO NEED FOR ROOF REPAIR WORK IN FY 85 ANTICIPATED. NORMAL CYCLIC WILL RESUME IN FY 86.
3	003	RECAULK TERRACE	30.0 30.0 7.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	
3	004	REFINISH BRONZE DOORS AND HANDRAILS	20.0 20.0 7.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	
3	013	MINOR STRUCTURAL INSPECTION	16.0 0.0 0.0	16.0 0.0 0.0	16.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 85 DUE TO INCREASED ELECTRIC AND ROOF REPAIR COSTS. DEFERRED TO FY 86 TO OFFSET 2 PERCENT CONGRESSIONAL REDUCTION AND ABSORPTION OF FY 85 PAY INCREASE. (WORK ENTAILS INSPECTION OF WALLS, ESCALATORS AND INTERNAL EXPANSION JOINTS.)
3	017	INSPECT AND CLEAN INTERIOR MARBLE PANELS	18.0 0.0 0.0	18.0 0.0 0.0	18.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 85 DUE TO ABSORPTION OF FY 84 PAY INCREASE. DEFERRED TO FY 86 DUE TO 2 PERCENT CONGRESSIONAL REDUCTION AND ABSORPTION OF FY 85 PAY INCREASE.
3	024	PAINT INTERIOR CEILING TILES	17.0 0.0 0.0	0.0 0.0 0.0	17.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 86 DUE TO INCREASED ELECTRIC AND ROOF REPAIR COSTS.
4	014	REPLACE VERTICAL EXPANSION JOINTS	15.0 0.0 0.0	0.0 15.0 0.0	15.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 85 DUE TO INCREASED ELECTRIC AND ROOF REPAIR COSTS. DEFERRED TO FY 86 TO OFFSET 2 PERCENT CONGRESSIONAL REDUCTION AND ABSORPTION OF FY 85 PAY INCREASE. (WORK ENTAILS INSPECTION OF WALLS, ELEVATORS AND INTERNAL EXPANSION JOINTS.)

[illegible] Attachment C

IMPACT STATEMENT

FY '85 Kennedy Center funding was reduced by 2%		92,000.00
and absorption of pay raise		53,100.00
		145,100.00
This resulted in a reduction in Supplies & Materials and transferring to FY 86 the following cyclic maintenance and non-recurring projects:-	2,800.00	
C/M Minor structural inspection of expansion joints	15,800.00	
C/M Replace vertical expansion joints	15,000.00	
C/M Replace vinyl floor tile	29,300.00	
C/M Inspect and clean interior marble panels	17,600.00	
N/R Cleaning Rock Creek overhang	22,700.00	
In addition, the following projects were transferred to FY 87:		
C/M Road repaving	25,000.00*	
C/M Sculpture cleaning	15,000.00	
and the monies available for miscellaneous contract work was reduced by	1,900.00	
	145,100.00	

*Increased in our FY 87 projections to $30,000 because of delay in having work done.

January 25, 1985

FY '85

Utilities and Maintenance Contracts

O/C		
23	Electricity	$ 1,600,000
	Telephones & Walkie Talkies	15,200
		1,615,200
25	Pest Control	1,200
	Trash Collection	9,200
	Air Cond. Maintenance	23,300
	Elevator & Escalator Maintenance	72,000
	Housekeeping	827,300
	Purchase carpet padding	10,000
	Install wallscaping in Grand Foyer	260,000
	Tour Assts. & Memorial Security	225,000
	Clean Grand Foyer drapes	10,000
	Paint Grand Foyer walls	50,000
	Insulate Service Drive & MER Rooms	20,000
	Clean Flags	5,300
	Miscellaneous contracts	84,400
		1,597,700
31	Purchase grounds sweeper and attachments	25,000

KENNEDY CENTER
CYCLIC AND NON-RECURRING MAINTENANCE PROGRAM

CYCLE	PROJ NO.	PROJ TITLE	FY 84 EST AUTH ACTUAL	FY 85 EST AUTH ACTUAL	FY 86 EST AUTH ACTUAL	FY 87 EST AUTH ACTUAL	FY 88 EST AUTH ACTUAL	FY 89 EST AUTH ACTUAL	FY 90 EST AUTH ACTUAL	REMARKS
4	019	SCULPTURE CLEANING (GERMAN FRIEZES)	15.0 0.0 0.0	15.0 0.0 0.0	0.0 0.0 0.0	15.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 85 DUE TO ABSORPTION OF FY 84 PAY INCREASE. DEFERRED TO FY 87 DUE TO 2 PERCENT CONGRESSIONAL REDUCTION AND ABSORPTION OF FY 85 PAY INCREASE. NOT PROGRAMMED IN FY 86 DUE TO INCREASED ESTIMATE FOR ELECTRIC COSTS.
4	028	INSPECT & REPAIR EXPANSION JOINTS - EAST PLAZA DRIVE	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	12.5 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	
5	018	PAINT HANDRAIL RAIL	5.0 0.0 0.0	5.0 0.0 0.0	5.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 85 DUE TO ABSORPTION OF FY 84 PAY INCREASE. DEFERRED TO FY 86 DUE TO 2 PERCENT CONGRESSIONAL REDUCTION AND ABSORPTION OF FY 85 PAY INCREASE.
5	039	ROAD PAVING AND REPAIR	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	30.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	SEE PROJ NO. 012 ON PAGE 4
7	005	PAINT GRAND FOYER WALLS	70.0 70.0 0.0	50.0 50.0 50.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	CONTRACT AWARD DEFERRED TO FY 85 DUE TO INCREASE IN ELECTRIC AND ROOF REPAIR COSTS. HOWEVER, INFORMATION RECEIVED LATE SEPTEMBER 84 INDICATED REVISED ESTIMATE OF $50,000. CONTRACT AWARDED JANUARY 1985.
7	016	CLEAN FLAGS	5.3 0.0 0.0	5.3 5.3 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 85 TO ACCOMMODATE WORK SEQUENCE IN GRAND FOYER.
7	036	PAINT CEILINGS - NORTH & SOUTH GALLERIES	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	38.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	
8	002	PURCHASE/REPLACE CARPET PAD GF, N/H, H/S	20.0 20.0 0.0	10.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 85 DUE TO INCREASE IN ELECTRIC AND ROOF REPAIR COSTS.
8	006	PURCHASE/REPLACE WALLSCAPE	170.0 170.0 74.0	0.0 260.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	PURCHASE OF WALLSCAPE (MATERIAL ONLY) WAS ACCOMPLISHED IN SEPTEMBER 84. ORIGINAL INSTALLATION PROCEDURES NOT RECOMMENDED BY MANUFACTURER. REVISED INSTALLATION PROCEDURES RESULTED IN INCREASED COST ESTIMATE.

Page No.
02/19/85

KENNEDY CENTER
CYCLIC AND NON-RECURRING MAINTENANCE PROGRAM

CYCLE	PROJ NO.	PROJ TITLE	FY 84 EST AUTH ACTUAL	FY 85 EST AUTH ACTUAL	FY 86 EST AUTH ACTUAL	FY 87 EST AUTH ACTUAL	FY 88 EST AUTH ACTUAL	FY 89 EST AUTH ACTUAL	FY 90 EST AUTH ACTUAL	REMARKS
8	007	CLEAN GRAND FOYER DRAPES	10.0 10.0 0.0	0.0 10.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 85 TO ACCOMMODATE WORK SEQUENCE RELATED TO PAINTING AND WALLSCAPING IN GRAND FOYER.
8	027	REPLACE CARPET GRAND FOYER, HALLS OF NATIONS & STATES	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	220.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	
8	029	REFINISH EXTERIOR COLUMNS (RIVER TERRACE)	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	
8	033	PAINT CEILINGS - GRAND FOYER, HALLS OF NATIONS & STATES	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	90.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	
8	035	CLEAN DRAPES	10.0 10.0 10.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	
8	038	REFINISH EXTERIOR COLUMNS UPPER LEVEL	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	INCLUDED IN CONTRACT FOR REFINISHING INTERIOR COLUMNS IN FY 84.
10	015	REPLACE VINYL FLOOR	29.0 0.0 0.0	29.0 0.0 0.0	29.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 85 DUE TO ABSORPTION OF FY 84 PAY INCREASE. DEFERRED TO FY 86 DUE TO 2 PERCENT CONGRESSIONAL REDUCTION AND ABSORPTION OF FY 85 PAY INCREASE.
10	026	MAJOR STRUCTURAL INSPECTION	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	50.0 0.0 0.0	
10	031	TERRAZZO FLOORS - MEN'S ROOMS	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	11.0 0.0 0.0	0.0 0.0 0.0	
10	032	TERRAZZO FLOORS - LADIES' ROOMS	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	
10	034	PAINT UPPER AND LOWER SOFFITS	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	62.0 0.0 0.0	
10	037	INSPECT AND REPAIR CONDENSATION WALLS	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	70.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	

KENNEDY CENTER
CYCLIC AND NON-RECURRING MAINTENANCE PROGRAM

CYCLE	PROJ NO.	PROJ TITLE	FY 84 EST AUTH ACTUAL	FY 85 EST AUTH ACTUAL	FY 86 EST AUTH ACTUAL	FY 87 EST AUTH ACTUAL	FY 88 EST AUTH ACTUAL	FY 89 EST AUTH ACTUAL	FY 90 EST AUTH ACTUAL	REMARKS
10	040	TREE REPLACEMENT	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	55.0 0.0 0.0	0.0 0.0 0.0	
15	009	REFINISH INSIDE COLUMNS	10.0 50.0 50.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	NORMAL MAINTENANCE CYCLE CALLED FOR REFINISHING OF INTERIOR COLUMNS. HOWEVER, IN PREPARING FY 84 BUDGET, THE NEED TO REFINISH UPPER TERRACE EXTERIOR COLUMNS TO MATCH LOWER TERRACE EXTERIOR COLUMNS WHICH WERE PAINTED IN FY 83 WAS RECOGNIZED AND WORK COMBINED INTO ONE CONTRACT FOR COST SAVINGS.
15	030	REFURBISH ELEVATORS	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	
A/N	012	REPAIR SIDEWALKS	19.0 40.0 19.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	FUNDS PROGRAMMED FOR SIDEWALK AND TRAIL REHABILITATION. DUE TO ABILITY TO USE CONSOLIDATED REGIONAL CONTRACT, WORK ON CURB REPAIRS, HANDICAPPED ACCESS, AND CRITICAL ROAD RESURFACING WAS INCLUDED.
A/N	041	SPRINKLER SYSTEM REPAIRS	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	
N/R	001	RELAMP O/H AND C/H	63.0 63.0 41.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	NATIONAL PARK SERVICE REACHED AGREEMENT WITH KENNEDY CENTER BOARD TO HAVE THIS PROJECT BECOME THE RESPONSIBILITY OF THE BOARD IN THE FUTURE.
N/R	008	REPLACE INSULATION SERVICE DRIVE AND AIR HANDLERS	0.0 15.0 0.0	0.0 20.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	NEED IDENTIFIED SUBSEQUENT TO DEVELOPMENT OF FY 84 PROGRAM BUT IN TIME TO USE FOR BUDGET ESTIMATE. HOWEVER, PROJECT DEFERRED TO FY 85 DUE TO INCREASE IN ELECTRIC AND ROOF REPAIR COSTS.
N/R	010	ENERGY MANAGEMENT SYSTEM	0.0 20.0 14.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	AS WORK PROGRESSED ON INSTALLATION OF SYSTEM, UNPROGRAMMED NEED FOR METERS AND MINOR SYSTEM ADJUSTMENTS WAS RECOGNIZED.

KENNEDY CENTER
CYCLIC AND NON-RECURRING MAINTENANCE PROGRAM

CYCLE	PROJ NO.	PROJ TITLE	FY 84 EST AUTH ACTUAL	FY 85 EST AUTH ACTUAL	FY 86 EST AUTH ACTUAL	FY 87 EST AUTH ACTUAL	FY 88 EST AUTH ACTUAL	FY 89 EST AUTH ACTUAL	FY 90 EST AUTH ACTUAL	REMARKS
N/R	020	SCAFFOLD	62.0 0.0 0.0	62.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 85 DUE TO INCREASED ELECTRIC AND ROOF REPAIR COSTS.DEFERRED TO FY 87 SINCE CUSTOM BUILT SCAFFOLD NO LONGER NEEDED TO CLEAN AND RELAMP OPERA HOUSE AND CONCERT HALL. READY-BUILT MODEL NEEDED FOR PAINTING SCHEDULED IN FY 87.
N/R	021	LIGHTS AND BENCHES - WATERGATE WALK	22.8 0.0 0.0	22.8 0.0 0.0	0.0 0.0 0.0	22.8 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 85 DUE TO INCREASED ELECTRIC AND ROOF REPAIR COSTS. DEFERRED TO FY 87 TO ACCOMMODATE INCREASED ESTIMATE FOR ELECTRIC COSTS.
N/R	022	CLEAN ROCK CREEK OVERHANG	23.0 0.0 0.0	23.0 0.0 0.0	23.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 85 DUE TO INCREASED ELECTRIC AND ROOF REPAIR COSTS. DEFERRED TO FY 86 TO OFFSET 2 PERCENT CONGRESSIONAL REDUCTION AND ABSORPTION OF FY 85 PAY INCREASE.
N/R	023	RIVER TERRACE MARBLE REPLACEMENT	0.0 0.0 0.0	88.0 0.0 0.0	133.1 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 86 TO ACCOMMODATE INCREASED ESTIMATE FOR ELECTRIC COSTS.
N/R	025	REPLACE DAMAGED CEILING TILES	0.0 0.0 0.0	11.4 0.0 0.0	11.4 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	0.0 0.0 0.0	DEFERRED TO FY 86 TO ACCOMMODATE INCREASED ESTIMATE FOR ELECTRIC COSTS.

---

*
(Figures are rounded to the nearest thousandth)

Estimated Amount (EST) - Project estimates and scheduling are determined 1 year prior to the start of the fiscal year, based on the best information available.

Authorized Amount (AUTH) - Project estimates and scheduling are adjusted or added to program at the start of the fiscal year based on actual accomplishments the previous fiscal year, the authorized appropriation level, and any unforeseen needs.

Actual Amount (ACTUAL) - Actual project obligations are reported following close out of the fiscal year and reflect adjustments for contract amounts and unforeseen needs.

January 1985

JOHN F. KENNEDY CENTER
FY '85

		Shared Expenses			
O/C No.		K.C. Share 23.8%	NPS Share 76.2%	Non-Shared Expenses Sole Responsibility of NPS*	Total
11.1	F/T Permanent	221,900	710,500	632,000	1,564,400
11.3	Career Seasonal	9,900	32,600		42,500
11.3	Part Time	6,100	19,500	91,500	117,100
11.3	Temporary	2,300	7,400	17,800	27,500
11.5	Other Personnel Comp.	18,600	59,600	29,100	107,300
12.1	Personnel Benefits	30,000	96,100	189,900	316,000
TOTAL PERSONNEL COSTS		288,800	925,700	960,300	2,174,800
21	Travel & Transp. Persons	2,000	4,000		6,000
23	Utilities	384,400	1,230,800		1,615,200
24	Printing & Reprod.	1,500	4,800		6,300
25	Other Services	321,100	1,028,000	248,600	1,597,700
26	Supplies & Materials	32,000	80,000	21,800	133,800
31	New Acquisitions			25,000	25,000
	TOTALS	1,029,800	3,273,300	1,255,700	5,558,800
	Less K.C. Share				-1,029,800
					4,529,000

*Security, grounds maintenance and visitor services are non-performing arts functions for which NPS is solely responsible.

TENNESSEE VALLEY AUTHORITY
KNOXVILLE, TENNESSEE 37902

OFFICE OF THE BOARD OF DIRECTORS

March 11, 1985

The Honorable Robert T. Stafford
Chairman
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In response to your February 25, 1985 request, we are providing written testimony covering the President's fiscal year 1986 budget for TVA. Also attached are answers to questions posed by you and Senator Humphrey regarding specific TVA programs and activities.

Please let us know if additional information is needed.

Sincerely,

CHDean

C. H. Dean, Jr.
Chairman

Attachments

An Equal Opportunity Employer

TESTIMONY OF C. H. DEAN, Jr., CHAIRMAN
TENNESSEE VALLEY AUTHORITY
BEFORE THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

Mr. Chairman, I hereby submit for your consideration the Administration's budget request of $38.6 million for TVA for fiscal year 1986. This compares to the $132.9 million appropriation in 1984 and $129.5 million in 1985.

The Tennessee Valley Authority is proposing no legislative initiatives in support of this Budget Program. The Administration, however, has included for 1986 an assumption of increased funds from the imposition of user charges, which will require additional legislation.

Mr. Chairman, I would now like to detail the Administration's plans for 1986.

Natural Resources

In fiscal year 1986 there is included $26 million for natural resources programs. This reduction from the 1985 level of $62 million is principally the result of the elimination of many of TVA's natural resource programs, as well as the completion of the Pickwick lock. The $26 million request will fund the following activities:

> Over several years dam safety modifications may be undertaken at some 21 dams in the TVA system. Studies have typically shown TVA's dams to be sound, but modifications would be necessary to meet updated Federal dam safety guidelines for new dams. The Administration has proposed appropriated funding for 1986 of $4.5 million to be supplemented by an additional $7 million in power funds to continue work at Chatuge and Nottely Dams and initiate work at Douglas. Requests for other dam modifications will be made in the future as engineering analyses are available.
>
> Reservoir system operations will continue to meet some of the navigation, flood control, and hydroelectric production needs. In lieu of appropriations, funding for navigation operations in 1986 is proposed by user fees totaling $1,250,000, contingent upon approval of legislation providing new statutory authority. Unlike last year's appropriation, all reservoir recreation in TVA-operated public access facilities away from dam reservations will be closed. Other land management functions will be curtailed, including protection of known archaeological sites on reservoir property. Control of mosquitoes and pest aquatic weeds will be reduced. Continued monitoring for changing consequences of flooding and flood conditions which occur on the Tennessee River and major tributaries will be curtailed. These activities were budgeted at $21.7 million in 1985. The request for 1986 is $18.4 million.
>
> Resource management and development support activities in 1985 were funded at $2.6 million; in 1986 our request is $2 million. This funding will continue TVA's work producing maps of the Valley region, as a part of the

USGS National Mapping Program, and activities that ensure TVA compliance with Federal and State environmental management regulations. Technical assistance in air quality management, monitoring regional air quality trends, and acid rain research will cease under the Administration's proposal.

Water resources, land and forest resources, and Land Between The Lakes funds are eliminated under the Administration's proposal. Water resources activities affected include development of water quality plans for TVA reservoirs, monitoring of tributary and reservoir waters for toxics, eutrophication, siltation and impacts of surface mining, and correction of critical long-term water quality problems in tributary streams; technical assistance in protecting groundwater supplies, eliminating drought-related supply problems, improving water systems operating efficiencies, and stablizing reservoir shoreline farmlands; development of technologies to increase the levels of dissolved oxygen in reservoirs; technical assistance fostering commercial aquaculture; and cooperative fisheries management of TVA reservoirs. Land and forest activities affected include restoration of Valley wildlife species; operation of dewatering and wildlife management areas; technical assistance in forest industry development and forest management; formation of university-based environmental/energy education centers; recreation improvements and programs on TVA lands; and technical assistance in other public and commercial reservoir recreation development. The 170,000 acre Land Between The Lakes recreation, land management, and environmental education demonstration and resource development facility would cease operation.

Economic and Community Resources

There are no funds requested in the 1986 Budget Program to finance the economic and community resources programs of TVA which in 1985 were funded at about $23 million.

Economic resources activities eliminated include the following programs that build self-reliance of small rural communities, demonstrate techniques used in other regions of the country, and promote public and private sector participation. These programs are: technical assistance to State and local governments and industry in expanding commercial navigation; broadly based technical and financial assistance to promote growth in the 50 most economically deprived counties in the Valley region; technical assistance, in collaboration with local communities and the private sector, to develop basic and advanced industrial skills training programs in schools and industry; technical and management assistance to socially and economically disadvantaged businesses; technical assistance to new small businesses and development of business incubator facilities; and technical assistance to existing Valley industry facilitating industry expansion and added jobs.

Community resources activities eliminated include increasing community organization and decisionmaking for self-determination and self-sufficiency; technical assistance to improve efficiencies in local government operations, solid waste management, and wastewater treatment, identification of downtown retail and service opportunities as well as adaptive reuse of buildings; technical assistance to communities in reducing local flood problems, and floodplain and stormwater management; and efforts to develop improved hazardous waste handling and disposition.

Agricultural Resources Development

The 1986 Budget Program proposes no funding for the agricultural resources development program which was financed with $5.8 million in 1985. The following activities are eliminated by the Administration's proposal:

--Demonstrations to improve production efficiency, financial management, and marketing on the Valley's family-sized farms.

--Demonstrations to introduce high-value enterprises such as vegetables, fruits, Christmas trees, ornamental shrubbery, and feeder pigs on marginal farms to increase family farm income.

--Marketing development projects that promote self-sufficiency of Valley farmers, including (1) production and postharvest research surrounding existing markets in specific geographical areas, (2) technical assistance to improve market access, develop business skills, and establish adequate volumes for the vegetable and feeder pig markets in the Valley, and (3) the introduction of electronic management and communication of market information to additional market outlets.

--Demonstrations on controlling soil erosion and nonpoint pollution of Valley streams and TVA reservoirs while maintaining farm income, and the active encouragement of retaining farmland for agricultural uses. This work involves a wide range of Federal, State, and local agencies and is key to TVA's responsibility for maintaining water quality.

--Cooperative research to determine the relationships between water alkalinity, organic fertilization rates, and net primary production of phytoplankton-algae in the generation of nutrients from wastes.

National Fertilizer Development

The Administration requests $10 million for fertilizer research in 1986. This is a decrease from the 1985 level for the entire fertilizer development program of $45 million.

Chemical facilities is the capital component of the national fertilizer development program in which TVA constructs and operates demonstration-scale plants to (1) avoid the risks in design scale-up from pilot plant to industry scale, (2) optimize technology developed in benchscale research, and (3) produce sufficient quantities of new experimental fertilizers for a national fertilizer introduction effort.

Included in the chemical facilities budget for fiscal year 1985 are projects for the design and procurement of equipment for a plant to produce ammonium polyphosphate suspension fertilizer and to provide the second increment of fluid fertilizer storage, various projects to assure compliance with effluent standards on water discharged from production facilities and the general plant, and other replacements, improvements, and support facilities projects. These projects and others which are scheduled for completion in 1985 total $6.4 million. The Administration's proposal does not include any funding for chemical facilities in fiscal year 1986.

Activities for fertilizer R&D in 1986 are reduced. This level of funding will finance basic laboratory research.

Appropriated funding for TVA's national fertilizer introduction program has been eliminated in fiscal year 1986. The three activities and their components financed in 1985 and prior years are discussed below.

(1) Farm test-demonstrations are carried out with universities in major agricultural areas and range in complexity from evaluation and investigative research to simple demonstrations of new fertilizer and new fertilization practices. Feedback from university evaluation of new products is used in making decisions regarding demonstration-scale production.

(2) Fertilizer industry demonstrations consist of field tests for new fertilizers and creating market demand for the experimental fertilizers flowing from the research and development program. Fertilizer firms pay for TVA's fertilizers at a price equivalent to conventional materials and bear entirely the extra capital outlays involved in adopting the new products or processes.

(3) Developmental production in TVA facilities allows engineers to resolve problems encountered in the scale-up of production processes from bench-scale to commercial-size units. This element of the program makes the research and development usable in the industry and generates revenue from the sale of experimental products to users to offset the total program cost.

Developmental operation, including performance testing, for the ammonia-from-coal facility will be completed in 1985.

The budget proposed by the President eliminates appropriations for the hardwood fuels research program. Work eliminated includes laboratory research for process improvement in making ethanol from wood and research on byproduct development and marketing. Ongoing construction of a pilot plant to evaluate various materials of construction and assess equipment configurations would be halted.

Power Program

TVA's power program is, of course, completely self-financed and does not receive appropriations. However, a figure that roughly equals the power system's net borrowings is shown in the Administration's budget as an "outlay."

With the completion of the Watts Bar and Bellefonte Nuclear Plants (Watts Bar 1985-1987 and Bellefonte 1988-1990), TVA's generating capacity should adequately support through the 1990s the economic growth expected under the medium and low load forecasts. For the high load forecast, some additional peaking capacity may be needed in 1994, and some additional base load capacity in the 1996-1997 timeframe. Based upon these forecasts, estimates of the cost of other capacity options, and an analysis of the cost of maintaining deferred nuclear units in a status available for restart, a decision was made on August 29, 1984, to cancel the Hartsville Nuclear Plant A and the Yellow Creek Nuclear Plant.

TVA has several power supply options which today appear less costly than construction of new conventional central generating stations. Conservation, solar, and load management programs in the TVA region show potential for reducing electricity demand by 11.2 billion kilowatthours from 1984 through 2000, more than 10 percent of TVA's power sales in 1984.

TVA's existing coal-fired plants, with appropriate maintenance, will continue to be reliable sources of power supply for many years. TVA's coal-fired units, though aging, are in the aggregate among the most efficient in the United States in their heat rate--a measure of thermal efficiency. The coal-fired plants that are most expensive to operate have been idled or "mothballed."

Improvements and innovations made as a result of TVA's research and development program are another avenue for avoiding high-cost conventional generating stations. In addition to projects designed to improve conservation, solar, load management, and existing power generation technologies, TVA is preparing, in cooperation with other parties, to build and test a demonstration-scale fluidized-bed combustion plant which shows promise of being less expensive in meeting emission control standards than conventional coal-fired generating stations with scrubbers. This technology will allow the use of higher-sulfur coals.

Finally, TVA is continually implementing management efficiencies designed to keep operating costs at the lowest level possible in order to provide a reliable supply of power at the lowest feasible rates, with a sensitivity to the environment.

General

We have proposed a further reduction in personnel for fiscal years 1985-1986. Based on our actual data for fiscal year 1984, TVA's total employment will decline in fiscal year 1985 from our previous estimate of 36,000, but level off at year end near 32,750. The original estimate of 36,000 reflected earlier construction schedules for TVA's Watts Bar and Bellefonte nuclear plants and a continuation of appropriated-financed regional development activities. These data reflect current power program needs, and also reflect the reduced level of appropriation as proposed by the Administration.

TVA's fiscal year 1985 appropriated budget is being reduced by an Administration proposed rescission totaling $1,538,000. The reduction is taken in accordance with Section 2901 of the Deficit Reduction Act of 1984. Section 515 of the Treasury-Postal Service Appropriations Act of 1985, which was enacted into law by the last continuing resolution for fiscal year 1985 (Public Law No. 98-473), does not apply to TVA. The following table details the Section 2901 reduction by object class.

Tennessee Valley Authority
(In thousands of dollars)

	Object Classification	1985
11.1	Personnel compensation: full-time permanent..................	-282
12.1	Personnel benefits: civilian................................	-63
21.0	Travel and transportation of persons.........................	-343
24.0	Printing and reproduction....................................	-20
25.0	Other services...	-130
26.0	Supplies and materials.......................................	-700
99.99		-1,538

We will be happy to supply additional information if needed.

Stafford

1. Question: Please explain about the dam safety work in the proposed budget. Is any money from the power program going to pay for this? Why or why not? If so, how is it determined how much comes from power revenues and how much from appropriations?

   Answer: TVA is currently modifying some of its existing dams in order to meet current dam safety design criteria for new dams. The President's proposed budget provides for the completion of modifications at Chatuge Dam, work at Nottely Dam, and the start of modifications at Douglas Dam. Chatuge and Nottely will both be increased in height and spillways will be enlarged. At Douglas the nonoverflow blocks in the main dam will be strengthened and the height of the saddle dams will be increased.

   The power program has always paid its share of the dam safety work. In the past, modifications of multipurpose facilities have been carried out initially using appropriated funds. Upon completion of the modification, the investment cost has been allocated to the programs benefited by the modifications in the same proportion as the original allocation made for the project and approved by the President under Section 14 of the TVA Act. The portion allocated to the power program increases the appropriated investment in the power system. TVA pays a return (dividend) to the Treasury each year that is calculated on the unpaid balance of appropriation investment in accordance with Section 15d of the TVA Act. The rate of this return is the Treasury's current interest rate, so the TVA power system payment keeps the Treasury whole.

   The President's budget proposes that power system funds now be used initially to finance the power system's portion of the initial investment. The amount to be funded by the power system would be determined by the original cost allocations approved by the President pursuant to Section 14 of the TVA Act.

   Given the uncertainties of TVA's appropriated budget, the TVA Board has taken the position that major dam safety renovations should not commence until sufficient funds are reasonably assured to complete the project.

Stafford

2. Question: If TVA is appropriated either $130 million (fiscal year 1985 funding level) or $123 million (a 10 percent reduction from fiscal year 1985), how much dam safety work would TVA perform and how would it be paid for (from the power and/or appropriated budgets)?

Answer: If TVA were to receive an appropriation of $130 million, TVA could fund the fiscal year 1986 dam safety modification program by implementing the President's proposed power/appropriation funding approach. Due to the uncertainty of future funding levels, TVA would be reluctant to initiate new modifications on a year-to-year funding basis. Modifications at a dam that would take more than a year to complete would not be started until full funding for that dam had been attained. Therefore, if TVA were to receive a 10-percent reduction, we would eliminate all the 1986 work except for the completion of modifications started at Chatuge Dam. Sufficient funding to finish Chatuge could be obtained by making the power/appropriations funding split applicable to fiscal year 1985.

Stafford

3. Question: Please explain the status of the ammonia-from-coal project. Why have no funds been requested for fiscal year 1986?

Answer: The primary goal of this project is to develop and demonstrate the technology and economics of the substitution of coal for natural gas in the production of ammonia. The three-year demonstration testing program will be successfully completed in 1985. The cost, some of the results, and future uses follow:

Costs:[1]

	In Thousands of Dollars		
	Capital	Operating	Total
Appropriated................	51,540	21,783	73,323
Outside funds...............	2,371	4,670	7,041
Total..................	53,911	26,453	80,364

Major results obtained to date are:

- First semicommercial operation in the United States of modern, integrated, second generation coal gasification/gas purification technologies to produce ammonia from U.S. coals using the Texaco gasifier.
- Solved numerous first-time-out mechanical, environmental, health and safety, corrosion and erosion, and control problems to advance the viability of the technologies.
- Completed cooperative test work with NASA to demonstrate Monsanto's prism process for removing hydrogen from process gases.
- Provided design and operational information and personnel training services to successful commercial installations in the United States and overseas.
- Presented technical and economic information to fertilizer and synfuels industries by receiving over 2,000 visitors, presenting numerous papers at technical meetings, and hosting technology transfer sessions at Muscle Shoals.
- Established excellent working relationships with The Fertilizer Institute, Electric Power Research Institute, U.S. Department of Energy, U.S. Environmental Protection Agency, U.S. Synfuels Corp., Texaco, and numerous private firms.

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[1] Project inception through December 31, 1984.

- Successfully demonstrated the process's compliance with Alabama and EPA air and stream emission limits.

- Refined economics of ammonia production from coal.

TVA's request for $200,000 to fund engineering studies for new uses of the ammonia-from-coal plant was eliminated in the Administration's proposed budget. The proposed funding would have allowed us to explore alternative future uses of the facility such as:

- Demonstration and research in alternate uses of syngas.

- Additional equipment and system development.

- Use of high-temperature gasification for hazardous and nonhazardous waste disposal.

- Testing of alternate feedstocks.

- Variation of process conditions to optimize process.

However, TVA is investigating the feasibility of keeping the facility available for testing and other R&D activities through outside funding sources, both governmental and nongovernmental. It is premature, however, to know whether sufficient outside funding, if any, will be forthcoming.

Stafford

4. Question: Please explain the status of the Columbia Dam and Reservoir project?

Answer: TVA halted all physical construction of the Columbia Dam segment of the Duck River project in September 1983. Since then TVA has continued some work on the mussel conservation program, cultural investigations, and water quality studies. Overall, the Columbia Dam segment is about 45 percent complete. Some $80 million has been obligated to date, with remaining costs estimated at $160 million.

Completion of the project is dependent on the success of the mussel conservation program and funding by the Congress. TVA has made a good-faith attempt through this program, approved by the Fish and Wildlife Service (FWS), to establish new mussel populations by transplanting them to other Valley streams, as well as to carry out the other aspects of the mussel conservation program. We reported last year that initial surveys of the transplants showed reproductive success was higher than expected but the goal for survival was achieved on only one stream. Additional surveys confirm these findings. As a result of its review of the program, in July of last year FWS determined that the survival criteria for "likely success" had not been met. Construction may not resume until likely success is demonstrated to the satisfaction of FWS.

Failure to meet these likely success criteria does not mean that over time the transplanted mussels may not become firmly established and reproduce successfully. Only time will tell, and our best estimate is that it will take a number of years and additional work to demonstrate success--achievement of which would permit completion.

Question: Why have no funds been requested for fiscal year 1986?

Answer: Until FWS determines that the mussel conservation program meets the likely success criteria it has established, no physical construction may resume on the project. At the beginning of fiscal year 1985 TVA had $2.2 million in remaining project funds to continue mussel monitoring under the current program, cultural investigations, and water quality studies.

Stafford

5. Question: Please explain why no funds have been requested for the Land Between The Lakes facilities?

Answer: The President's budget proposes that TVA operate LBL on a fully self-financed basis or transfer it to another Federal, State, local, or private sector organization, effective October 1, 1985.

We are pleased that TVA is presently able to recover an amount equal to about 13 percent of LBL total annual costs. We have been and are still increasing our efforts to generate additional revenues, but we do not see any way to continue the current demonstration, innovation, and education objectives of LBL activities and operate on a total cost recovery basis. Under these conditions the only realistic course of action would be to close LBL.

Question: Are any other private or governmental agencies (Federal, State, or otherwise) prepared to take over TVA's functions here?

Answer: No, we are not aware that funding or direction has been provided to any other Federal agency that could accommodate operating LBL. Neither do we know of any State agency or private entity preparing to assume responsibility for LBL. Because LBL lies in both Tennessee and Kentucky it would also be difficult for current operations to continue as a State function.

Question: Have any expressed interest in doing so?

Answer: No.

Stafford

6. Question: I see that your budget request assumes $1.25 million in navigation user fees. How is the proposed $1.25 million in user fees calculated? How are those fees going to be collected? What sort of agreements would have to be made with the Corps of Engineers before such fees could be collected? Would these fees have any effects in the Tennessee Valley region such as cargo diversions, hardships on shippers, etc.? Please explain.

Answer: The Office of Management and Budget based its projection that user fees could finance a portion of TVA's navigation activities upon the assumption that Congress would enact waterway user fee legislation this year to provide such funds to TVA in fiscal year 1986. Under current law, waterway user fees may not be used as an alternative source of funding for that portion of TVA's navigation program identified in the Administration's budget. In addition, existing law does not permit TVA to receive funding from the Inland Waterways Trust Fund, which is comprised of revenues from the Federal barge fuel tax.

We are not aware of the methodology or the assumptions used by OMB to derive the $1.25 million figure set forth in the Administration's fiscal year 1986 budget.

The manner in which such user fees would be collected and allocated between TVA and the Corps of Engineers would, of course, be determined by the particular user fee legislation which Congress may decide to enact. If such legislation is to be enacted, it should fully recognize the statutory responsibility of TVA for the management of the Tennessee River system, and TVA should be entitled under such legislation to receive directly its proportionate share (as compared to the share of the Corps of Engineers) of the total user fee revenues collected in order to fund its navigation activities in the Tennessee River basin. Such allocation of revenues should not be left to the uncertainties of negotiation between the two agencies.

The effects of a waterway user fee on the Tennessee Valley region would depend upon the level of such fee, as well as the other characteristics of the particular user fee system which Congress may decide to establish. For example, while a uniform national user fee would principally affect shippers' choices among available transportation modes, the assessment of different fees on the various segments of the Nation's inland water system would have varying impacts on regional economies, potentially including the effective shutdown of some lower use waterway segments.

At least some of the fee's incidence, of course, would fall on the shipper and ultimately the consumer, with corresponding increases in shipping costs. If the barge transportation industry is able to remain a viable competitor, however, these increased costs should not significantly affect the Tennessee Valley region's overall economy. Regional barge transportation presently carries approximately 16 percent of the commodities shipped in the region. The establishment of user fees would, of course, have effects on certain segments of the regional economy, including the barge transportation industry itself and those products which constitute the greatest volume of traffic on the Tennessee River system--coal, grain, liquid chemicals, and petroleum products. Here again, the nature of these effects would be dependent upon the level of user fees which Congress chooses to establish.

Stafford

7. Question: What will be the consequences of the proposed funding for reservoir land management?

Answer: The reduction will be applied in a manner that gives priority to meeting legal mandates and contractual obligations. Many current activities would have to be eliminated. Remaining activities would be conducted at greatly reduced levels.

The proposed fiscal year 1986 funding level would result in eliminating operation and maintenance of 26 campgrounds, 4 day-use areas, 10 trails, 52 undeveloped recreation areas, 6 developed informal recreation areas, and 27 boat launching areas on TVA reservoir lands. Cyclic maintenance on reservoir recreation facilities would be deferred, including all repaving of roads and parking areas and other major maintenance work. These facilities can be expected to become unsightly and unsanitary from litter and vegetative growth. Vandalism would likely destroy restroom and other vulnerable public facilities. TVA will continue to operate and maintain 73 recreation areas on TVA dam reservations.

Monitoring of agricultural licenses would be curtailed. We anticipate that this would result in increased contract violations and abuse of the land. No maintenance would be performed on reservoir roads or to preserve TVA property boundaries along our 11,000 miles of shoreline. No cleanup of illegal dumps and litter on reservoir property or coordination of such efforts with local public groups would be possible.

Field checks on requests for approval of plans to construct shoreline facilities required under Section 26a of the TVA Act would be limited to major projects. Response time for handling all land use requests would increase, and only major encroachments on TVA lands and reservoirs would be handled. This would be expected to encourage violations and encroachments on Federal land and reservoirs, with corresponding adverse effects on all TVA and public interests such as navigation, flood control, power, recreation, timber, and wildlife.

Stafford

8. Question: I notice that TVA has requested no more funds for modifications of hydroelectric turbines to improve downstream water quality. Has this work not proven worthwhile? If it has, could a continuation of this program provide further improvement in reservoir water quality? Also, since the turbines' operation result in power proceeds, couldn't this work be paid for out of the power budget? If not, why not?

Answer: Program results have been very satisfactory at the four TVA dams (Norris, South Holston, Boone, and Tims Ford) where installations are being tested or implemented. In addition, the U.S. Army Corps of Engineers has installed and tested a set of hub baffles on one of their units at Clarks Hill Dam using the concept and design provided by TVA.

Our experimental reregulating weir to increase streamflows below Norris Dam has also proven effective by producing a tenfold increase in minimum streamflow in 1984.

Continuation of the program would indeed provide further improvements in Valley reservoir water quality. We have identified seven other TVA dams with significant dissolved oxygen or low flow problems.

TVA's efforts should also expand the potential number of useful applications outside the TVA region. Our experience has shown us that while improved water quality from dam releases can be achieved, no single technology or technique will always prove effective. The intensively developed TVA system includes dam types found on a variety of reservoirs across the country. TVA studies have included several turbine venting methodologies and air blowers to enhance dam releases.

While most of our work thus far has been more relevant to high dams typical of the eastern U.S., we began work in 1984 with a reservoir aerator system that could prove useful on many smaller, private dams and many western U.S. dams. The question of improving dissolved oxygen levels is increasingly important to all existing dams as it has become an issue of consideration in the relicensing of these dams.

TVA has always tried to separate those costs and benefits that accrue directly to the power system ratepayers from those arising from TVA's broader responsibilities, as the TVA Act so provides. Our reservoir releases program, in fact, has received power funds since its adoption. These contributions are tied to the basic allocation of benefits that we report to the President on all our multipurpose dams and also form the basis for determining funding allocations for operation and maintenance of the reservoir system. The power contribution to the work we have done thus far has equaled about 26 percent of the total program costs.

We would also like to note that except for unusual spring flood conditions and lock operations, virtually all water moving through the TVA system already flows through power turbines. Accordingly, TVA's aeration testing does not present an opportunity for increased revenues for the power system. TVA has evolved a precision in the management of this water movement that has permitted not only maximum use of the water for power production but an ability to schedule its use as a low-cost source in otherwise high-cost, peak power demand periods. The best technology we have developed so far in the releases program still reduces to a degree the efficiency of the power turbines and it also requires water be released at times not always optimum to power scheduling. Both of these consequences create an additional power cost not reflected in the releases program funding.

Stafford

9. Question: Please explain how TVA's economic development program and strategies have changed through the years.

Answer: While specific TVA economic development programs have changed through the years, the principles which guide TVA activities have been consistent and reflective of local and regional needs. TVA has demonstrated how environmentally sensitive development of the Valley's resources can strengthen the abilities of people and their institutions to improve the economic and social well-being of the people of the Valley. Working in close cooperation with local, State, and community leaders, TVA's assistance efforts have been guided by the philosophy of helping those willing to help themselves. TVA does not do the job for others but, through technical assistance, provides the know-how for local communities and others to build self-reliance rather than dependence upon others. These lessons are also relevant to economic development problems outside the Valley. TVA consciously seeks to conduct its activities as demonstrations so that others can learn and benefit from TVA's knowledge and expertise. TVA has developed a model for attacking pockets of poverty in rural areas that is being applied nationally.

Because of the range of TVA technical expertise and the decentralization of its staff across the Valley, TVA programs can quickly respond to changing needs. In response to the decline in the region's economy in the early 1980s which resulted in increases in unemployment, TVA increased the focus of many of its activities and assistance on jobs--both the creation of new jobs and preservation of existing jobs.

Recognizing that more than half of the new jobs are created by existing industries, in 1984 TVA initiated on a limited basis a pilot program which provided a range of services to existing businesses and industries. These services ranged from energy audits and transportation rate analyses to employee training. The existing industries program demonstration has been so well received by business leaders, States, and individual industries that the program is being offered across the region in fiscal year 1985.

In another example of our ability to rapidly adjust program direction to meet urgent needs, TVA has intensified its skills development demonstrations. We are also involved in helping educational institutions and industries develop new training programs in such high-technology areas as robotics.

Another example of shifting emphasis is the increased funding for the special opportunities counties and cities program which attempts to close the economic gap between the most distressed areas in the Valley and the rest of the Nation. This program demonstrates how local development organizations can structure financial packages to create new jobs with emphasis on investment by the private sector.

In addition to its economic development programs, TVA community development efforts have been redirected to support job creation activities. High priority is placed on linking TVA and State efforts to help communities identify and overcome barriers to economic growth.

In each of these programs, TVA seeks to identify problems, suggest solutions, strengthen local capability to respond to the issues, and move on to the next important issue facing the region.

Stafford

10. **Question**: If they are available, could you please provide statistics that reflect the effectiveness of TVA's economic and community development programs?

Answer: In 1984 TVA conducted a pilot program in cooperation with eight TVA power distributors throughout the region to stimulate the creation of new jobs in existing industries by helping plant managers lower operating costs and more effectively plan for new expansions. This program offered services which include energy management surveys, transportation rate analyses, preliminary civil engineering assessments, water supply and waste disposal, air pollution control, employee training, and financial resource identification. As a result of working with 87 manufacturing firms that provide 200 services, 2,500 new jobs were created. Based on the success of this demonstration, these efforts have been expanded Valley-wide in 1985 with encouraging results. Already this year in Mississippi, TVA has assisted eight companies which have announced plant expansions creating over 1,600 new jobs.

A skilled labor force is increasingly important in building economic opportunities for the Tennessee Valley region. In 1984 TVA skills development programs helped train more than 11,000 people for private sector jobs paying an average of $8 per hour. Those training efforts added about $121 million in annual wages to the Valley's economy and made taxpayers of many individuals who were previously unemployed.

TVA assistance to minority entrepreneurs resulted in new businesses and 250 new permanent jobs.

Some areas of the Tennessee Valley region still suffer from poverty levels far below regional and national levels. The TVA special opportunities counties and cities program puts special emphasis on efforts to close the economic gap between these distressed areas and the rest of the Nation. No single approach is the best answer for all such communities, and this is where TVA's flexibility can be most effective. The program concentrates on a broad range of projects that create jobs, raise per capita income, and take advantage of local resources to improve local economies. These projects range from agricultural and forestry to industrial development initiatives. During fiscal years 1983 and 1984 such financial and technical assistance helped created 2,500 private sector jobs in economically depressed areas through business startups and expansions. This resulted in $25 million of direct annual payroll wages with total economic benefits of over $40 million. This represents a return of $10 for every dollar of the public's investment.

TVA community assistance activities focus on strengthening the abilities of citizens and their institutions to improve their own communities through technical assistance emphasizing improved use of existing resources, volunteers, and the private sector. TVA solid waste management assistance in rural areas resulted in savings of more than $1.5 million to local communities. TVA has assisted communities in reducing the costs of water system operation through application of a leak detection program, which since 1979 has saved 215 million gallons of treated water and $170,000 per month for communities.

Programs to revitalize the downtown commercial districts of 68 small towns resulted in an investment of $25 million in public and private funds in 1984. Over 100 new jobs were created and 18 new businesses established. A leverage ratio of 25:1 was achieved with TVA funds.

The community preparedness program has put high priority on linking TVA and State efforts to identify and overcome barriers to economic growth in the TVA region. In 1983 about 80 projects were initiated under TVA-State technical assistance agreements to boost the growth of the jobs in such fields as business, tourism, agriculture, and forestry. TVA has helped more than 400 development groups create more than 3,000 jobs and attract millions of dollars in business investments. For example, TVA assisted the community leaders of Greenville and Greene County, Tennessee, in a community needs assessment and formation of an economic development strategy in 1983. This action has resulted in the creation of 500 new manufacturing jobs and $10 million in new investment.

In another example, the community of Dover, Tennessee, was assisted in organizing and implementing a broad-based community development program which was instrumental in reducing the unemployment rate of Stewart County from 46 percent in January 1983 to 15 percent in late 1984. Significant local accomplishments included revitalization of a chamber of commerce, the expansion of four local industries, and the creation of 530 jobs by new industry. In addition, there is a tremendous increase in community pride as evidenced by 2,000 volunteer hours by local citizens in implementation of their development strategy.

Stafford

11. Question: Does TVA presently have programs to assist ratepayers in either purchasing, planning, or operating wood-burning stoves? If so, are these programs to be continued? Are these programs funded out of power or appropriated funds? Does the Tennessee Valley region experience any air quality problems related to wood smoke.

Answer: TVA has been sponsoring a wood heater program since late 1979 in which consumers are assisted in purchasing wood heaters. The program provides low- and no-interest loans to qualified customers in participating power distributor service areas, Loans are available to cover the cost and installation of the wood heater, stovepipe, chimney, and other items designed for proper and safe installation of the wood heater, including a fire extinguisher and smoke- or smoke-and-heat-sensing device. The complete installation must pass a final inspection before the loan amount is made available to the homeowner and/or contractor. In addition to the loan program, TVA has available a number of wood-heat-related publications describing the safe operation and maintenance of wood heaters.

TVA intends to continue this program in the foreseeable future. TVA studies indicate that wood heaters are cost effective power supply options. Estimates show that a properly installed wood heater saves about 4 kW of electric demand at the time of TVA's system peak and saves the consumer about 6,000 kWh of electricity per year. These savings will contribute to reduced operating and capacity costs to the power system. Considerable emphasis is given to proper equipment installation and use for both safety and environmental reasons.

The wood heater program is funded with power system funds.

Studies have shown that a possible significant impact on air quality is found in those areas where houses are clustered together and there are more than 150 wood heaters in a square mile. Also, areas that exceed the National Ambient Air Quality Standards for ozone, carbon monoxide, or total suspended particulates--called nonattainment areas--could experience a significant impact in air quality from wood smoke. These areas are usually metropolitan areas containing industrial pollution. TVA's wood heater program is not offered in nonattainment areas and is not offered in areas which contain more than 150 wood heaters per square mile.

Stafford

12. Question: Please describe in detail TVA's air quality work which would cease under the fiscal year 1986 budget request. Could some or all of this work be paid for by the power budget? Why or why not?

Answer: The President's budget provides no funds to TVA for air quality work. TVA's efforts currently supported by appropriations are in four program areas--air resource management, regional monitoring, indoor air quality research, and acid rain research.

Air resource management activities focus on providing technical assistance to Valley State and local regulatory agencies in the identification and resolution of air quality problems. The program's primary emphasis is on the problems of nonattainment areas and unregulated toxic pollutants. Tools and strategies TVA uses in these efforts include air pollution zone modeling, management of air resources to maximize sustained economic growth, technical advice to industry in transferring low-cost technology for air quality management, and increased public awareness of air quality. TVA is presently operating five ambient air monitoring sites in cooperation with regulatory and development agencies and industry to determine local ambient levels of selected pollutants, especially toxics. TVA activities in this area also include conducting air quality assessments for proposed private developments requiring TVA lands and landrights.

The regional monitoring program supports the operation of four regional ambient air quality trend monitoring stations to establish regional background levels of air pollutants. The information collected by this network provides insight into such regional air pollution problems as acid rain and ozone. One of these stations is located in the Great Smoky Mountains National Park where it is contributing to studies measuring impacts on visibility, ozone, and other pollutants in the park rqgion. The data are also used by regulatory agencies and industries for determining background levels for air quality modeling and developing control strategies for development plans. TVA's power program also operates and pays for a multitude of compliance monitoring sites around all of TVA's generating facilities. However, this monitoring is for very specific pollutants and is generally dominated by localized conditions.

The indoor air quality program is concerned with determining the extent of existing indoor air pollution problems. Increased attention is being given nationally to possible health problems resulting from or aggravated by indoor air quality. Pollution sources are in some instances generated within the home or other buildings. Many more pollutants are known to be externally produced, with uncertain consequences or behavoir in an enclosed environment. TVA's work in this area also includes a cooperative study with EPA. TVA's power program, as a separate, power-funded activity, is assessing the consequences to indoor air of its weatherization program.

TVA's proposed acid rain research program, using appropriated funds for 1986, is an integral part of the National Acidic Precipitation Assessment Plan. TVA's research is concentrating on the decline of the high-elevation spruce/fir forest in the southern Appalachians, the increase in pH and aluminum concentrations in high elevation streams during storm events, and the unusually high incidence of back deformities in smallmouth bass in some of our tributary reservoirs. The national plan also calls for TVA, in cooperation with the Environmental Protection Agency, the U.S. Forest Service, and the Southern Appalachian Research Resource Management Cooperative, to monitor acidic deposition in rain and clouds at a high elevation site to support the forest decline research.

TVA's power program already funds acid-rain-related research through three separate avenues. First, through its air emission research program, it continues to explore new or improved methods of control technology for power plant emissions. Results achieved under this effort have already made TVA the national leader in reducing sulphur emissions at its coal-powered plants. Second, as a member and major financial supporter of the Electric Power Research Institute, TVA is part of the national utility industry's own research into acid rain research. Third, under its acid deposition effects research plan, power funding supports an effort complementary to work progressing with appropriated funds in the National Acidic Precipitation Assessment Plan. The purpose of this last power effort is to investigate the contribution of acid deposition to adverse effects observed for sensitive resources in the Tennessee Valley. TVA's power program strategy is to identify the information needed in the Southeast to determine the magnitude and extent of aquatic and terrestrial effects and their probable relationship to acid deposition, and to work with national and regional organizations to assure these needs are met. Current work parallels appropriated efforts in forest soils hydrology, spruce-fir forest assessment, and atmospheric inputs and impacts in high-elevation spurce-fir forests.

Stafford

13. Question: Have either the fertilizer industry or Valley farmers indicated the ability or willingness to carry on the fertilizer demonstration and development work for which no funds are being requested in fiscal year 1986?

Answer: TVA's fertilizer program is probably the most effective technology transfer program in the Federal Government, largely on account of this demonstration and development work. Demonstration and development work is the necessary linkage in the technology transfer chain between the laboratory development of a new fertilizer technology and its acceptance and implementation by the private sector. The development work continues during the demonstration stage as new information is acquired from the field and technology's efficiency and performance are evaluated in real-world conditions.

Neither the fertilizer industry nor farmers have the same ability without TVA to undertake this demonstration and development work, directly evaluate the results of these activities, and make modifications and conduct further research as needed on TVA-developed technologies. Entities and individuals which were not involved in the original research phase for a given chemical and manufacturing process are simply not in the same position to integrate field performance into the original processes as effectively as the developer of those processes. Therefore, even if the fertilizer industry or farmers indicated a willingness to take over this work from TVA (which they have not done), they would lack the ability to conduct this work as effectively as TVA can, and TVA's fertilizer research program would probably produce fewer commercially viable technologies.

The apparent unwillingness to take on this work may be attributable to the substantial costs already being borne by the fertilizer industry, universities, and farmers in implementation of the technologies developed by TVA and other agricultural programs. The fertilizer industry currently supports about two-thirds of the costs of TVA's fertilizer introduction program through payments for the TVA experimental fertilizers purchased. The facility changes required to implement some TVA technologies also have their costs to the fertilizer industry, along with the cost of developing markets for new products. For some technologies farmers have to incur added costs in obtaining new or modified equipment to use new fertilizer products. In addition, the limited resources available to farmers and universities in the Valley region are already heavily committed to bearing the costs of the cooperative agricultural development program. Therefore, the elimination of funding for TVA's demonstration and development program would effectively result in these activities not being performed at all, to the detriment of TVA's research program and the Nation as a whole.

Stafford

14. Question: Please list and describe those capital improvements which were to be funded in your fiscal year 1986 budget submission to OMB but are not included in the Administration's fiscal year 1986 budget request to Congress.

Answer: The capital improvements which were excluded from the Administration's budget request come from five primary program areas: (1) chemical facilities, which supports the national fertilizer development program, (2) land and forest resources, (3) Land Between The Lakes, (4) additions and improvements to multipurpose facilities, and (5) general facilities, which supports TVA programs broadly. The funding noted with each project represents only the amount proposed for fiscal year 1986 and not necessarily the total cost of the project.

Chemical Facilities

1. Ammonium polyphosphate suspension - phase II ($1,400,000) - This is a demonstration-scale facility which will produce a new fertilizer product having unique characteristics for cold-weather storage, use as a multinutrient base, and the blending of high-analysis suspension fertilizer mixtures.

2. Fertilizer granulation test facilities ($468,000) - This project is necessary to replace a 30-year-old obsolete facility which is all but useless for today's more advanced fertilizer technology.

3. Fertilizer storage facilities ($2,916,000) - This project includes fluid storage at TVA's loading dock and a bulk storage expansion (10,000 tons new capacity) at the plant site.

4. Railroad tank car replacements ($630,000) - Replacement of obsolete 50-ton tank cars over 40 years old, and thus not acceptable for service, with new 100-ton tank cars for distribution of experimental liquid and suspension fertilizers.

5. Support facilities ($1,957,000) - These include primary pollution abatement dikes, disposal of phosphorus sludge, salvaging abandoned equipment, water pollution control facilities, laboratory research instruments, and design studies for new fertilizer production units.

Land and Forest Resources

6. Recreation resources ($420,000) - This work involves upgrading and expansion of TVA recreation facilities.

Land Between The Lakes

7. LBL facilities ($95,000) - This project includes the replacement of maintenance equipment and materials.

Additions and Improvements

8. Additions and improvements ($1,732,000) - These projects include turbine venting modifications, spillway gate painting equipment, mooring bitts, and a maintenance building at Nickajack Dam.

General Facilities

9. General facilities ($1,092,000) - This portion of the budget includes field, laboratory, and engineering equipment necessary to support TVA's regional development programs.

15. Question: If TVA's actual appropriation level for fiscal year 1986 is $38.6 as requested by the Administration, how many TVA employees would lose their jobs? Please give a figure for each of the major program areas. Overall, what percentage of TVA employees would lose their jobs as a result of this level of funding?

Answer: We estimate that approximately 2,000 employees would lose their jobs. Of this total, it is estimated that over 800 would come from the natural resources and economic development programs and between 850 and 875 would come from TVA's agricultural and fertilizer development programs. The remainder, approximately 200-250, would come from corporate staffs and support organizations within TVA.

Based on end-of-year data for fiscal year 1984, we estimate this reduction in appropriations-financed employment to be 74 percent. For the record, TVA has reduced its total employment (including power-financed activities) from its peak of 53,248 on November 30, 1980, by 19,660 or 37 percent--the largest decrease in total employment by any Federal agency.

Humphrey

1. Question: Given that the Murphy Hill synthetic fuels project in North Alabama has now been withdrawn from consideration by the Synthetic Fuels Corporation, could you please provide me with a complete accounting of money that has been appropriated to the project, which has yet to be spent? What are TVA's plans for these funds? Additionally, could you please provide me with a year by year break down of TVA spending on this project, with a complete description of the nature of this spending?

Answer: During fiscal years 1980 through 1984 a total of $108 million was spent on the North Alabama Coal to Methanol Project. During the first five months of fiscal year 1985 approximately $4 million has been spent. We estimate that an additional $4 million will be required to restore the site to an environmentally stable condition, to close out the remaining contracts, and to complete project documentation. Of this $4 million, approximately $2.5 million is required for site-related work, $.1 million to close out contracts, $.7 million to close out the engineering effort, and $.8 million for program management and environmental support. After this work has been funded about $9 million will be available for other purposes. A more precise number will be available in May after the remaining contracts are audited, closeout costs negotiated, and final arrangements made for restoration of the site. The use of these remaining funds will be established in consultation with Congress and the Administration.

TVA feels that there is value in placing the project in a defense energy reserve status and thereby provide the Department of Defense and the Nation with a high degree of assurance that a clean, liquid-fuel plant can be built on an accelerated schedule in case of a national emergency. All of the site engineering is complete, the site is available, and environmental permitting is far advanced. All this could save critical time in an emergency.

The attached table tabulates the project expenditures by fiscal year and major category. The key activities each fiscal year can be summarized as follows:

1980 - Conceptual engineering design.

1981 - Preliminary plant designs.
Environmental studies.
Overseas coal tests in Koppers-Totzeck (K-T) and Texaco plants.

1982 - Engineering design and cost estimate for full-module K-T design plant.
Majority of Murphy Hill site preparations.

1983 - Engineering design and cost estimate for reduced-size K-T plant.
Completion of site preparations.
Fleet test of methanol/gasoline blends.

1984 - Engineering design and cost estimate for reduced-size Texaco-design plant.
Completion of fleet testing.

1985 - Texaco design wrap-up and documentation.
Murphy Hill site restoration.

2. Question: The Administration has proposed to completely eliminate funding for economic development programs. Can you provide me with any analysis as to the effect that these cuts will have on the economic development of the region?

Answer: In order to understand the impact of these reductions on the region, it is important that we first explain the economic context within which we are working. The recent national economic recovery has seen some major metropolitan areas, such as Nashville, Huntsville, and Knoxville, rebound well with unemployment rates relatively low--at or below the national average. If you look at the Valley as a whole, however, there remains a serious unemployment problem, especially in many rural areas. Therefore, while we can be pleased with our successes, it is also clear that much more work remains. For example, in the fourth quarter of 1984 about 135,000 more Valley people were unemployed than in the same quarter of 1979. In 1984 the average unemployment rate for the United States was 7.6 percent; in the Valley it was 9.6 percent.

At the beginning of this fiscal year about one out of every four counties in the Valley had recorded unemployment rates at least twice as high as the national average.

The Valley has not been generating jobs rapidly enough to keep up with the growth in its labor force. In the longer term, if this trend continues, people will simply have to leave the area and look for jobs elsewhere. The economic momentum the region developed in the late 1960s and 1970s would be lost.

One factor in this situation is that we have more of the older, mature maufacturing industries than the rest of the Nation. In addition, the Valley's manufacturing and agricultural sectors have been depressed by high interest rates and the strong dollar.

It is true that the national economy is in the midst of a major economic transition, with growth occurring in the knowledge-intensive service and manufacturing industries, defense industries, and other business and personal service industries. However, the Tennessee Valley region is not even keeping up with the rest of the country in the part of the economy in which growth is taking place.

Between 1979 and 1985 employment in the nonmanufacturing, nonagricultural part of the national economy grew by 8.5 percent. In the Tennessee Valley its growth was only about 2 percent.

TVA serves local government, State government, the private sector, and even other Federal agencies as a partner and catalyst in the region. TVA programs bring together and focus on key ingredients for achieving growth: identification of economic opportunities, development of indigenous resources, improvement in local government services and capability, development of human resources (especially skills training), and the flexibility to respond to the diversity of issues particular to any single problem.

TVA efforts in economic and community development are designed to help strengthen the Tennessee Valley region's economy through a series of small, carefully targeted, cooperative development programs. The region covers 201 counties in seven States, and encompasses a number of diverse economic circumstances. TVA programs acknowledge and respond to this diversity. Programs are in place to help the very poorest rural areas overcome their tremendous barriers to economic development and create badly needed jobs in areas where Federal welfare comprises nearly 25 percent of total personal income. Other programs address the needs of threshold communities which have the potential for economic growth but need assistance in assembling local resources and targeting their efforts to gain the best possible competitive advantage. Still other programs are directed toward the more developed areas of the region, helping them capitalize on the presence of highly skilled labor and university research capabilities to encourage high-technology development in the service sectors. In short, TVA is utilizing its very limited resources to help the region's communities achieve a fuller understanding of their present economic circumstances and to assist them in charting practical economic development initiatives which take into consideration both their resources and limitations.

If the Valley does not participate fully in the national economic transition, we could find ourselves in a self-reinforcing downward spiral where people leave the region to find jobs and the resulting loss of tax revenues makes it even more difficult to train workers and offer other advantages that will attract jobs. This would be similar to the situation in the Valley during the 1930-1960 period, in which a net outmigration from the Valley of almost a million people took place.

Humphrey

3. Question: In TVA's budget documents it is suggested that TVA and the Office of Management and Budget had agreed to further explore recommendations made by the Grace Commission with regard to the National Fertilizer Development Center. Could you please provide me with an analysis of the relative feasibility of the plans suggested by the Grace Commission?

Answer: The Grace Commission (President's Private Sector Survey on Cost Control) generally was very complimentary of programs of the National Fertilizer Development Center. It noted, for example, that "Effectiveness is probably the strongest asset of the NFDC." The report also cited "a high success ratio, industry acceptance, and an in-depth understanding of the project," and said "the Muscle Shoals staff is cost conscious."

However, reflecting the Grace Commission's basic mission, it recommended shrinking the size of NFDC and developing alternative funding to reduce and eventually eliminate the need for congressional appropriations for its programs.

The Commission noted that the work force devoted to fertilizer research, development, and introduction had been reduced over a period of several years. It recommended further staff reductions of 3 percent per year for at least 10 years. Such a drastic cut in staffing could not be accomplished without eliminating major segments of the R&D program, which would greatly diminish the effectiveness of the total effort. The comprehensiveness and unity of the program are its major strengths.

The Commission recommended consideration of a phase-out of congressional appropriations over a three-year period. It suggested such alternative sources of funds as user fees, special sales taxes on fertilizers, and fees for licenses to use TVA-developed processes.

In September 1984 TVA discussed with the President's Office of Cabinet Affairs the recommendations of the Grace Commission on the fertilizer program. The Administration directed TVA to explore alternative methods for reducing the amount of Government funding of the introduction program. TVA advised the Administration that, of the alternatives identified by the Grace Commission, the only dependable source of revenue would be an excise tax on fertilizer. TVA promised to further analyze this issue and submit its findings with its fiscal year 1987 appropriations request. The Administration, however, made the decision to disallow any further funding, beginning in fiscal year 1986.

Already, the fees TVA charges for the sale of experimental fertilizers supports about 75 percent of the introduction program. To increase these fees to cover 100 percent of the cost would be counterproductive. The fertilizer TVA produces, by its very nature--being experimental, produced for brief periods, and in relatively small tonnages--cannot be manufactured and shipped competitively with products made in huge commercial plants. However, it must be priced competitively with commercially produced fertilizer or it will not be used and none of the valuable field information will be obtained. Consequently, eliminating the present subsidy for limited prototype operations or adding a user fee to each ton produced would effectively halt sales in the introduction program. This highly effective aid to technology transfer would be eliminated.

Institution of a license fee system on TVA process developments is fraught with problems--and might end up costing more than it earned. We found a sliding fee concept almost totally ineffective more than a decade ago. It was in effect between May 1970 and September 1973, and involved a license cost of from $50 to $1,300, depending on plant output. During that more than three-year period, only one license was issued. The philosophy that guides the introduction program is one of widest possible dissemination of TVA technology in order that farmers and consumers can benefit in the shortest possible time. Because of this philosophy and its effective implementation, 75 percent of all fertilizers produced today are based on TVA research or manufacturing technologies.

This is not to say there are no opportunities for enlisting private sector funding. We have some such funding now and are examining other opportunities where contractual operation of specific facilities or to accomplish specific objectives is mutually advantageous. However, we feel we must do this in a manner that protects the basic integrity of our organization and fulfills the mandate of the Congress to operate for the benefit of the public.

From a practical standpoint, of the options listed by the Grace Commission, imposition of an excise tax on fertilizers would be the only workable alternate way to provide sufficient reliable funding to support the entire TVA fertilizer research program. The simplest approach would be to impose a tax of $1 per ton. The major problem would be providing a mechanism for collecting the tax. With about 50 million tons of fertilizer sold to farmers annually, $1 per ton would fund the NFDC program and perhaps provide sufficient funds to cover administrative costs if administration were handled through existing organizations. The Administration has indicated it is opposed to imposition of such an excise tax.

Humphrey

4. Question: Please describe, in detail, the effects that a simple freeze at fiscal year 1985 spending levels would have on TVA. In addition, please provide a description of the effects that a 10 percent reduction from fiscal year 1985 spending levels would have on TVA's programs. Also a 20 percent reduction from fiscal year 1985 spending levels.

Answer: To maintain a simple freeze in appropriation financing in 1986, modifications to improve dam safety would be reduced through a combination of programmatic cuts and by funding a part of the program directly with power system funds to the extent the power program benefits from the projects. (Under current procedures, all such expenditures are financed with appropriated funds, with that portion of such expenditures benefiting the power program being added to the appropriation investment in the power program, upon which TVA makes annual dividend payments to the U.S. Treasury.) At a funding level of $117 million, a 10-percent reduction from the $130 million appropriation in 1985, the following reductions would be made:

--Natural resources - capital investment--Activities to improve dam safety would be reduced by direct cuts and by directly funding a part of the program using power system funds to the extent that the power program benefits from the projects (-$10 million) rather than continuing to use the appropriations investment approach outlined previously.

--Natural resources - operating expense--General reductions would be applied to the several natural resource program areas (-$1 million).

--Economic and community resources - operating expense--General reductions from these program areas (-$2 million).

--National fertilizer development - capital investment--Reductions would be made to eliminate storage facilities planned for construction (-$2 million).

--National fertilizer development - operating expenses--Reductions would be made in the fertilizer introduction program (-$2 million).

--General services - capital investment--A reduction would be made in the amount of support equipment to be purchased (-$1 million).

We have been able to deal in summary form with a 10 percent cut. However, a 20 percent cut would require a new ground-up reassessment by each program manager and a reprioritization of the total budget by the TVA Board. It is not feasible to initiate such an exercise at this juncture of the budget process.

Humphrey

5. Question: Please describe TVA's present protocals and involvement with other nations.

Answer: TVA's experience and reputation as a demonstration agency has influenced the course of development projects in many countries outside the United States. Several dozen river basin development agencies in other nations were modeled on TVA experience, including ones in India, Pakistan, Japan, Mexico, and Ireland. TVA, through a cooperative agreement, helps the U.S. Agency for International Development (AID) apply appropriate portions of TVA's expertise, using training and technical assistance and development projects in AID-assisted nations. TVA has performed similar services for the World Bank, the United Nations, and other international development agencies. These agencies reimburse TVA for all expenses and overhead in connection with this work. TVA also coordinates its work closely with the International Trade Administration to assure that any early market information about future projects overseas is provided to private sector engineering and construction firms.

TVA, in its role as an electric power producer, has several formal and informal cooperative agreements with utilities in industrial nations. These agreements allow for exchange of technical information and training, and are usually of mutual benefit to TVA and the cooperating foreign utility, but provide for reimbursement, if appropriate.

Each year TVA hosts nearly 1,000 high-ranking foreign officials on study tours or visits to TVA facilities.

Humphrey

6. Question: In part, TVA was conceived to be not only a "yardstick" for measuring the performance and rates of other utilities, but also as a national laboratory for economic and resource work and improvement. Please describe in some detail how TVA is attempting to live up to these responsibilities. As part of your answer, please include the following: a comparison of TVA power rates with those of other utilities around the nation and a listing and decription of developments, techniques, technologies, etc., developed by TVA which are or are going to be applied and used outside the Tennessee Valley region.

Answer: TVA has long been a national leader in providing inexpensive electricity. As shown in the attached charts, TVA's rates are currently among the lowest in the Nation. Although the marginal advantage decreased somewhat during the 1970s due to an extensive nuclear building program in a period of high interest rates, the 1980s have shown a return to our leadership position. For the past four years TVA's rates have been essentially level (0.4 percent increase for fiscal year 1985). TVA anticipates that increases in ensuing years will be at or below the rate of inflation. It should also be remembered that TVA's power program is completely self-financing and as such receives no subsidies or appropriations that result in any cost to the taxpayers.

TVA serves as a yardstick to other power producers in other ways as well. We conduct an agressive R&D program in addition to being the largest contributor to the Electric Power Research Institute. Areas in which we recently have or currently are conducting research include coal washing, atmospheric fluidized-bed combustion, solar heating, photovoltaics, electric vehicles, and solar ponds. TVA is the only electric energy producer which has publicly announced support for acid rain legislation.

An important component of our appropriations-financed activities is that TVA address itself to the most important natural, agricultural, economic, and human resource issues facing the Valley region in the most cost-effective and efficient manner. We consciously plan these efforts in a way that significant results can be replicated in other parts of the country. This makes our demonstration capability of national significance, and involves careful evaluation and an effective information/technology transfer mechanism.

In addition, the fact that the national fertilizer development program, Land Between The Lakes, and reservoir management programs are either national in scope by design or serve in lieu of other Federal agencies' efforts reinforces the national character of our programs.

As a part of this effort, we have established cooperative agreements between TVA and the National Rural Center dealing with the training of rural community leaders. We are also working with the National Rural Electric Cooperative Association so that NRECA can emulate nationally our effort to use rural electric cooperatives to stimulate economic development and job creation activities.

In order to avoid duplication with other Federal and State efforts, we have in place or are working toward agreements with several agencies within the Department of Agriculture, the Environmental Protection Agency, the Department of State, the Department of Commerce, the Department of the Interior, the Department of the Army, the Appalachian Regional Commission, and the National Cooperative Bank, as well as the seven States of our region. The agencies with whom we cooperate are able to review ideas from our research or action programs that can be used elsewhere in the United States and even abroad.

Core components of most TVA programs are fundamentally regional demonstrations with potential national significance. Examples of this work include:

Reservoir Releases Improvements - TVA's investigation of methods to increase dissolved oxygen levels in water releases from high dams, while not yet complete, has already resulted in a Corps of Engineers aeration project at its Clarks Hill Dam using techniques developed by TVA. Likewise, another Corps project is under consideration that will construct a reregulating weir similar to the one TVA completed this year on the Clinch River. TVA's current work in enhancing dissolved oxygen levels in some smaller tributary reservoirs has direct application for many private or municipal reservoirs and some western projects managed by the U.S. Bureau of Reclamation.

Tick Research - TVA and the Department of Agriculture are engaged in a joint effort at LBL to determine the most effective way to control tick populations in large areas such as parks, wildlife refuges, and recreation areas. Results could also be beneficial to management of private lands. In addition, TVA is cooperating with commercial producers of repellent to field test and assess chemical methods of tick control.

Townlift - TVA's integrated approach to revitalization of downtown areas of rural communities is being applied in the State of Georgia by communities outside the Valley region. Townlift staff are in their third year of a contractual agreement with USAID as technical advisors to apply broadly based community development techniques developed by TVA to Southeast Asian and African cities.

Forestry - TVA has been an early leader in applying microcomputer-assisted techniques to improved forest management. These tools are already being employed by Valley region State forestry departments, the U.S. Forest Service, and private consulting foresters. To broaden participation and activities, much of this development is being "spun off" through the independent Forest Resources Systems Institute.

Environmental/Energy Education - The planned network throughout the Valley region of 17 self-sustaining centers for expanding support to local schools is just over halfway along in its development. At this time the States of Oklahoma, Wisconsin, California, South Carolina, Florida, and South Dakota have also initiated systems modeled after TVA's concept.

Skills Development - In order to create a more employable Valley work force, TVA has been working with States to research and demonstrate new state-of-the-art education and training programs. This work has already resulted in the development of an automated "factory of the future" to retrain employees, and a program to improve the instructional capability of math and science teachers which has been recognized as one of the best innovative programs in the Nation.

Fertilizer Technology Introduction - TVA's fertilizer technology introduction program is a prime example of spending tax dollars to support an effort that benefits all consumers across the Nation through the widespread dissemination of fertilizer technology. This technology is derived from research, development, and demonstration facilities located in the world's only National Fertilizer Development Center, operated by TVA at Muscle Shoals, Alabama. Critical feedback from cooperating universities, fertilizer manufacturers, and distributors serves to upgrade manufacturing processes and products, and thereby produces the technology to enable commercial producers to make chemical fertilizers that can be sold in the marketplace at lower cost to the farmer. These efforts keep food prices down and ultimately benefit every consumer.

Agricultural Resources Development - Two activities within this program have tremendous potential for use on a national scale. The first, soil conservation, has been successfully demonstrated in west Tennessee, Mississippi, and Alabama and is readily adaptable to almost any area plagued with the loss of productive topsoil. TVA's program is designed to stop soil loss, restore nutrient value to the remaining soil, and halt surface and groundwater pollution caused by erosion. The second, farm market development, is designed to aid the small farmer and could have national demonstration potential in any area where logistics prevent the delivery of quality products on time from the producer to the consumer. TVA's program includes helping increase volume through existing markets, developing marketing skills for managers and farmers, and increasing the efficiency of the marketing system. Specific projects include (1) assistance to vegetable growers in organizing cooperatives, (2) further development of federated cooperatives to improve communications, supply market intelligence, and pool orders, and (3) development and implementation of programs to increase market hog production in the region.

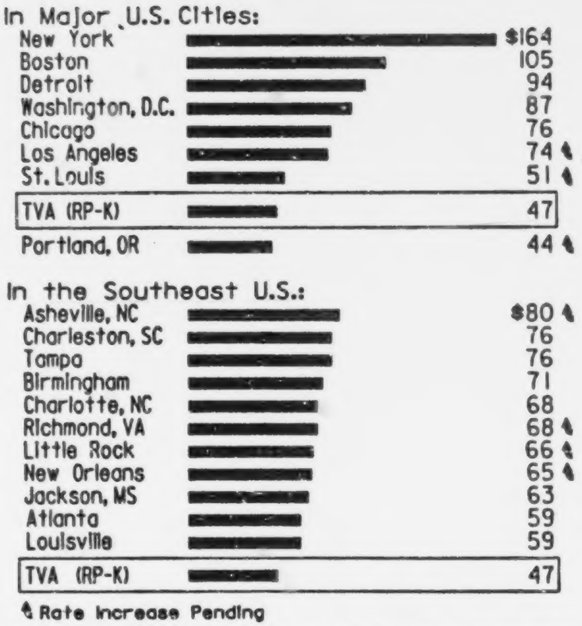
Hardwood Fuels Research - This TVA program also has potential national application, since the hardwoods used in the process to produce ethanol from wood extend through the Appalachian area, up the east coast, and into the Ozark region. The research information developed will also be suitable for use with abundant western softwood trees. Marginal open lands also exist in many areas outside the TVA region which could be more effectively used to provide biomass feedstock for the cellulosic hydrolysis process. This type of program effort offers a unique opportunity in areas of abundant biomass resources to increase economic development activity and generate jobs.

NORTH ALABAMA COAL TO METHANOL PROJECT

Funding Summary
(In millions of dollars)

	1980	1981	1982	1983	1984	1985 thru 3/1/85	Total To Date	Required To Complete	Total
Program/project management (including environmental support)................	.4	5.4	6.3	5.7	5.0	1.0	23.7	.8	24.5
Marketing/financial/operations planning	.1	.1	.2	1.0	.8	.2	2.5	.1	2.6
Site related (including acquisition, preparations, highways, restoration, and construction management).........	.2	.5	13.5	4.5	1.6	.2	20.5	2.5	23.0
Engineering (including coal tests, licenses, and architect/engineering...	4.2	13.4	17.2	11.9	16.1	2.4	65.2	.6	65.8
Total...........................	4.9	19.4	37.2	23.1	23.5	3.9	111.9	4.1	116.0

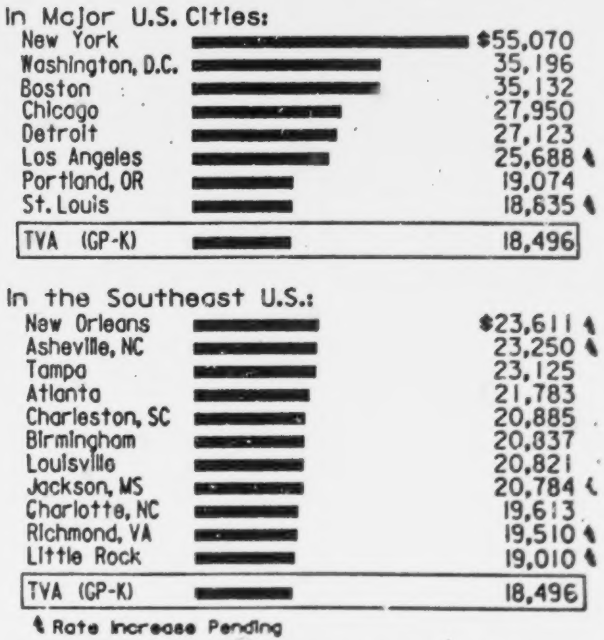
MONTHLY RESIDENTIAL ELECTRIC BILLS
1,000 Kilowatthours
October 1984



NOTE: Bills for others are based on applicable residential rate information obtained directly from the utilities. Bills include all currently applicable adjustments and charges except local and state sales taxes. TVA rate level RP-K is typical of basic residential bills in TVA service area; amount may vary in particular locations due to rate level difference and application of special charges.

1,000 KWh is a utility comparison standard nearest to the average use in the Tennessee Valley. At higher or lower use levels, TVA rates may compare more or less favorably.

MONTHLY INDUSTRIAL ELECTRIC BILLS
1,000 KW Demand-
400,000 KWh Monthly Consumption
October 1984



NOTE: Bills for others are based on applicable industrial rate information obtained directly from the utilities. Bills include all currently applicable adjustments and charges except local and state sales taxes. TVA rate level GP-K is typical of basic industrial bills in TVA service area; amount may vary in particular locations due to rate level difference and application of special charges.

This usage level is a utility comparison standard. At higher or lower use levels TVA rates may compare more or less favorably.

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March 1, 1985

The Honorable Robert T. Stafford
United States Senate
133 Hart Senate Office Bldg.
Washington, D. C. 20510

Dear Senator Stafford:

We would like to express our grave concern regarding the Reagan administration's current proposal to cut back the Tennessee Valley Authority's appropriated budget for FY 1986 by approximately 71%. We believe that TVA should accept its fair share of cutbacks in its appropriated budget for FY 1986 due to the deficit, but we strongly object to TVA being singled out for such a drastic cut while other federal departments are not called upon to bear such a burden. Since 1980 TVA has already accepted major budgetary cutbacks amounting to 39%, after inflation, in its appropriated budget. During this same period, the federal budget has grown by approximately $349 billion.

We believe that such a proposed funding reduction for TVA would result in its destruction as an institution as mandated in the TVA Act of 1933. We are especially concerned that TVA's mission to conserve the natural resources and protect the environment of the Tennessee Valley cannot be adequately accomplished subsequent to such a drastic budgetary cut. The citizens of the Tennessee Valley are vitally dependent upon certain TVA programs to conserve and protect our natural resources. Sections 22 and 23 of the TVA Act provide a flexible mandate by which TVA has increasingly been able, through an interdisciplinary approach to river basin conservation and development, to address numerous problems, challenges, and opportunities of the Tennessee Valley and the nation. The problems have changed, but TVA can still address the environmental challenges of the 1980s.

The TVA environmental quality and natural resource conservation programs are unique in the Tennessee Valley. In fact, TVA has proved to be a vital resource in stimulating a greater consciousness among many state agencies and local and regional planning groups to utilize and be sensitive to environmental criteria in development decisions. The Conservation Foundation recently ranked the states regarding their provision of environmental legislation for the protection of their citizens' health and resources. The fact that Alabama ranked 50th, Mississippi 48th, and Tennessee 33rd should demonstrate the need for TVA's continued involvement in encouraging a greater inclusion of environmental values and criteria by the Tennessee Valley state and local decision makers.

We are particularly concerned that the Reagan administration's current budget includes no funding for a number of important TVA conservation-related programs within the Office of Natural Resources and Economic Development. REGIONAL AIR MANAGEMENT program information provided by TVA has been helpful in identifying concentrations of particular air pollutants and in tracing their patterns throughout the Tennessee Valley. This has been especially important due to the fact that TVA is a large contributor of sulfur dioxide emissions in the Valley. This important recording of air pollution emission information will not be available if TVA is no longer funded to monitor and report it to the states and private enterprises. TVA's program addressed to ACIDIC PRECIPITATION is especially vital due to the fact that great portions of the Southern Appalachians are experiencing severe environmental problems with tree growth and survival greatly affected at upper elevations. The superintendent of the Great Smoky Mountains National Park has stated that acidic precipitation is one of the greatest external threats to the Great Smoky Mountains National Park, America's most used national park. The TVA board has recognized that TVA's power operations play a role in that problem. Their efforts to address the problem for the nation should not be stifled by an administration which talks about the need for acid rain research then refuses to fund it.

We also believe that the ARCHAEOLOGICAL INVENTORY of 4,000 acres of TVA reservoir lands is an important activity in this archaeologically rich area. As you know, development projects can bring severe stresses upon our historic and cultural heritage. TVA has an outstanding cultural resources staff who, like their counterparts dealing with the protection of natural areas, has worked to mitigate and preserve important parts of the cultural heritage of the Tennessee Valley. They have also fostered complementing activities at the state level. The Tennessee Valley contains some of the most significant archaeological sites in North America. For example, Seven Mile Island, a linear island in Pickwick Reservoir near Florence, Alabama, dates its cultural history some 10,000 years and is one of the foremost paleolithic sites on this continent. TVA has to date worked to protect that and other sites and is seeking to inventory others which may be of equal significance.

TVA's natural resources programs for the land and forest resources have also been proposed for total elimination. TVA has utilized these programs to manage 15,000 acres of dewatering areas on TVA reservoir lands in cooperation with the Valley states and the U. S. Fish and Wildlife Service in protecting approximately 4,000 acres of bottomland hardwood timber, wintering over a half million ducks and geese and sustaining about 60 endangered bald and golden eagles. The resulting direct economic benefits from these WILDLIFE RESTORATION AND HABITAT IMPROVEMENT programs amount to approximately $2.5 million annually. The Tennessee Valley is facing significant developmental pressures particularly along riverine wetland and other ecologically sensitive areas, resulting in the annual loss of wildlife habitat to urban uses amounting to over 100,000 acres per year. Without TVA's efforts, it is doubtful that the states would be able to bring their fish and wildlife programs as far as they have or to replace the contributions that TVA is making in these areas.

TVA's programs in ENVIRONMENTAL EDUCATION in schools are absolutely essential if there is to be environmental education in the schools in the Tennessee Valley. Many of the TVA environmental education programs are directed toward out-of-school citizens as well as students and serve as a significant contributor to citizen understanding of the importance of ecological values.

The lands and waters associated with TVA's reservoirs are experiencing an estimated 70 million visits annually. These visits are also expected to increase by 10 million during the 1980s. There are a dearth of municipal, county, and state parks in this region. The Tennessee Valley is heavily dependent upon the recreational opportunities provided by TVA. The quality of life for many of our citizens in the Valley would be greatly affected should the quality and level of services provided by the TVA VISITOR RECREATION programs be eliminated. An elimination of the operation of TVA's 26 reservoir campgrounds, 62 day use and informal recreation areas, 10 trails and 23 boat launching ramps would also do irreparable harm to the Tennessee Valley so dependent on tourism as an important economic base.

TVA's LAND BETWEEN THE LAKES multiple-use demonstration combining environmental education with stewardship of the land and recreational experiences is a unique facility unlike any other in America. TVA's ability to bring its combined talents to bear on natural and cultural resource heritage preservation should justify retaining funding for all functions associated with the management of its programs and its 170,000 acres of land.

Among other TVA programs within TVA's Office of Natural Resources and Economic Development targeted for elimination and of special concern to us is the TRANSPORTATION/RIDESHARING programs whose staff has proposed over 60 additional van pool startups over the next three years which would reduce the amount of auto pollutants by over 200 tons. The SOLID AND HAZARDOUS WASTE MANAGEMENT and WASTEWATER AND WATER SUPPLY OPERATION activities have served to demonstrate advanced solid and hazardous waste and water supply management practices.

There are also programs in other TVA offices which address conservation issues and are regrettably proposed for extinction. Within TVA's Office of Agricultural and Chemical Development, the agricultural resource development operation is proposed for total dissolution. Among the most valuable programs in that office is the FARMLAND PROTECTION program which works with state governments and citizen organizations to protect and preserve prime agricultural lands, which account for 17% of the lands in the Tennessee Valley. Western Tennessee, Northwest Alabama, and Northeast Mississippi have some of the worst soil erosion problems in America. TVA's multi-state approach, through its valley-wide SOIL AND WATER CONSERVATION program on 210 resource management conservation farms and 250 demonstrations of no-till conservation farming, are providing a valued national contribution in promoting the conservation of vital soils. TVA's 12,000 HOME GARDEN DEMONSTRATIONS, each generating over $600 worth of food for low-income families, reflects volunteerism at its best, and has served as a national model for other organizations. Similar valued activities are occurring through the MARKET DEVELOPMENT program whereby the optimal crops of small family farmers are matched with appropriate markets. These types of services are not reaching Valley citizens from any other source.

This letter does not profess to have included every TVA program of value to us which has been targeted for elimination by the Reagan administration. Other programs, such as the RESERVOIR LAND PLANNING program, have also been proposed for funding but at levels insufficient to allow the staff to provide the participatory approaches to land management planning which should be provided. All of these programs, from RESEARCH AND DEVELOPMENT TO INCREASE THE DISSOLVED OXYGEN CONTENT IN WATERS BELOW HYDROELECTRIC DAMS to the DEVELOPMENT OF COMPREHENSIVE RESERVOIR WATER QUALITY MANAGEMENT PLANS to FLOOD HAZARD ANALYSES to STREAM ACCESS LAND ACQUISITION programs reflect the diversity of talents which TVA can bring to bear on environmental problems. In the early 1930s, those problems centered around flooding and health service inadequacies of a mosquito-infested valley. Today the Tennessee Valley faces new and perhaps more complicated environmental challenges from hazardous waste issues to groundwater problems. TVA has the unique capability to bring its resources to bear in a way that no other single public or private enterprise can to address these issues, but it cannot if it is destroyed. If the current Reagan administration budget proposal is not overruled, TVA's mandate will be destroyed without the administration touching the TVA Act. TVA's mission will be reduced to a whimper, and its chances for contributing to the future of the Valley and the nation will be foregone. We hear a lot these days about how we need a strong national defense. We would assert that a strong environment and a strong economy are compatible and are as important to our national security as is a large-standing army with warehouses of powerful armaments.

We believe that the Tennessee Valley Authority has made significant strides through its natural resource conservation and environmental quality programs in the last decade. We intend to stand by those people in TVA who are standing up for the environment. We hope you will, too. We believe that TVA as a mechanism has not outlived its usefulness. TVA can address the environmental problems of this new era. We hope you will agree with us that the people at TVA deserve a chance to continue their momentum toward addressing them. We urge your support for the fair budgetary restoration of these TVA programs and others which you see as being reflective of a sensitivity to the environment and the exercise of wise stewardship of our valued natural and cultural resources.

Sincerely,

James M. Price

James M. Price
Southeast Representative

Steve Hiniker
Appalachian Representative

David Gardiner

David Gardiner
Legislative Director

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TENNESSEE VALLEY ENERGY COALITION
1407 EAST FIFTH AVENUE / KNOXVILLE, TN 37917 / 615-637-8018

March 2, 1985

The Honorable Robert T. Stafford
United States Senate
133 Hart Senate Office Building
Washington, D. C. 20510

Dear Senator Stafford:

We are writing to urge you to restore funding to TVA's congressionally appropriated budget in order to allow the agency to continue to pursue its mandate to foster grassroots economic development within the Tennessee Valley.

The Tennessee Valley Energy Coalition is a private non-profit organization with over 5,000 members. We formed nearly six years ago in response to dramatic increases in TVA electric rates. Over the years we have organized citizen education campaigns, mobilized citizen participation in PURPA hearings and other rate hearings, litigated on rate issues, testified before Senate committee hearings relating to TVA and generally worked to assure that the concerns of residential ratepayers - especially those of low or moderate income - are represented in the forums where decisions are made.

Historically, our major concern has been rates and rate structure. As such we have generally had an adversarial relationship with TVA. But in all our activities we have professed a belief in the importance of TVA's mission to the Valley, and have sought to improve rather than defeat the agency.

The Reagan administration proposes to remove TVA from any involvement in the economic development of the Tennessee Valley. We feel this would be a serious mistake. It would undermine efforts that are in the midst of assisting hundreds of economically depressed communities and thousands of people. It would scuttle a pool of information and resources that has been developed over fifty years of experimentation, experience and relationship with the people of the Valley.

The Tennessee Valley Energy Coalition has prepared a statement which addresses our concerns with President Reagan's proposals for TVA's future. We ask you to review this statement and then act in a manner that will allow TVA to continue work on the mandate established for it by Congress over fifty years ago.

Sincerely,

Mark Thompson

Mark Thompson
Tennessee Valley Energy Coalition

TENNESSEE VALLEY ENERGY COALITION
1407 EAST FIFTH AVENUE / KNOXVILLE, TN 37917 / 615-637-8018

STATEMENT ON PROPOSED BUDGET CUTS TO TVA ECONOMIC DEVELOPMENT PROGRAMS
MARCH 2, 1985

The tendency of a national election to homogenize the concerns of the country into a cogent whole often draws attention away from problems which at first glance appear to be strictly regional. Such is the case with the economy of the region served by the Tennessee Valley Authority.

Traditionally the economic well-being of the TVA area has lagged far behind the rest of the nation. In 1929, before the Authority came into the region, per capita income stood at only 45% of the national average. Although tremendous gains have been made since that time, the 1980 census showed average income at a level only 80% of the national average.

Not only in income, but in levels of housing, education, employment and health care the Tennessee Valley has lagged far behind national averages, shockingly so in some cases. In addition, almost 14% of the families in the region are below poverty level, compared to less than 9% nationwide.

Many of the gains made by the region in the period from 1930 to 1980 can be attributed to the movement of workers from an economy based largely on agriculture to one based on manufacturing. Unfortunately, the recessionary period from 1979 to 1983 impacted manufacturing regions most heavily. While the nation's unemployment rate rose from 5.8% in 1979 to 9.5% in 1982, the rate in the TVA region more than doubled, going from 6.0% to 12.2%. The most recent figures from September, 1984 show the region is still almost 2 points above the national average. The region-wide statistics also tend to be somewhat optimistic for there are many counties which suffer from double-digit unemployment, especially in the Appalachian region of the Authority's service area. Nearly one out of every three workers in Cocke County in mountainous East Tennessee is unable to find gainful employment, while at least six counties in the region bear the burden of unemployment rates in excess of 17%. It is euphemistic, if not distorting, to view the TVA service area as a "pocket" of economic problems. In fact it remains a seven-state canyon of poverty, with some pockets of affluence and normalcy.

It was to address this chronic regional malaise that the Tennessee Valley Authority was formed. "...(In) the interest of national defense and for agricultural and industrial development...there is hereby created a body corporate by the name of the 'Tennessee Vallley Authority'." (TVA Act) In addition to flood control, agricultural development and electric generation, the Act further authorizes the expenditure of public funds "all for the general purpose of fostering an orderly and proper physical, economic and social development of said areas", said areas being the Tennessee River drainage basin. Surveys, plans, studies, experiments and demonstrations are listed as activities that "may be necessary and suitable to that end."

In creating the TVA Congress put in motion an important national experiment, an experiment in public response to public problems. Historically the state and local governments of the Valley have been unable to adequately meet the need for coordinated, innovative, effective development of the Valley's natural and human resources because of the Valley's depressed economic state. In this depressed context, TVA has been able to play a crucial role in bringing together national and local values and resources to deal with the problems that have kept the Valley from sharing equally in the nation's prosperity.

Yet, while real advances have been made, the job is far from over. Many old problems persist. Many new problems have emerged:

* hazardous waste management;
* controlling acidic precipitation;
* the collapse of family farms;
* the transition from a manufacturing based economy to a service based economy;
* chronic unemployment amongst particular groupings of people (i.e. minorities, women, rural people);
* locating capital for local business expansion and new business development.

The Valley must move to address these problems and others if it is to ever move forward.

Why, we might ask ourselves, are the problems of one region of the country problems that should be dealt with on a federal level? Why is a regional problem a national problem? Three thoughts come to mind. First, the problems that affect the Valley are experienced in every other region of the United States in one form or another. Congress has a responsibility to develop models to deal with these problems. The second aspect has to do with the way our contemporary economy is ever more integrated than in previous economies. It is not smart to expect that the flourishing of some regions and impoverishment of others will occur at a leisurely, manageable pace over the course of generations, mitigated by the benefits of a vibrant national economy. If we adopt that stance we will be looking down the barrel of simultaneous crises fostered by uneven regional development - a crisis in transfer payments, a crisis in public infrastructure, a crisis of confidence in public institutions, and on and on. The third point deals with national defense. As a nation we cannot discuss the need for and development of a strong national defense and ignore the impediments to healthy economic development. Our first line of defense as a nation is not sophisticated weapons systems, but is the social and economic security of our people.

Just as TVA was mandated in 1933 to develop the national models to demonstrate how to improve the well-being of the Valley's people and make greater utilization of the Valley's natural resources, so is that mandate relevant today. On a federal level we must continually be concerned with studying, experimenting and demonstrating that regional partnerships amongst federal, stae, local and private entities can indeed foster "orderly and proper physical, economic and social development."

Given the relevance of this mandate, it is important that we examine the principles of public policy that argue for retaining TVA's economic development programs.

The first principle is one of mitigation, that is, when an entity promulgates policy that has a negative effect on a region, then mitigating measures are necessary to ameliorate those negative effects. Two factors are relevant here. First, current federal fiscal policy shortchanges the region served by TVA. In comparing the dollars lost to the region through cuts to federal social programs to the dollars that accrue to the region through individual and corporate tax savings, the net effect of the 1983-1986 budgets is negative. Secondly, we must look at the role federal policy has played over the last five decades in shaping the Valley's current economic base. Federal policies related to tax, trade, procurement and energy have all played a major role in developing an economy dependent upon a combination of low-paying, high-polluting, capital intensive industries and industries which rely heavily on military contracts. To be sure, TVA, as an agency of the federal government, in bringing jobs and industrial development to the region, has played a role in creating this dependence. But the solution to dealing with these mixed federal blessings of the past is not to throw out the baby with the bathwater with platitudes about getting the government off our backs. Rather the government owes the people of the Valley a better execution of some fundamentally sound conceptions,such as those found in the TVA Act, and a reconceptualization of the policies that created our economic dependence.

The second principle has to do with the importance of a creative, vital public sector as a part of a regional economy. The public sector is by definition more accountable to the people it professes to serve, and thereby better reflects the values of a democracy. On a pragmatic level, public sector jobs offer greater access to minorities and women entering the workforce, and are more likely to recruit local workers.

Building on these principles, we would like to offer the following criteria for economic development activities within the Tennessee Valley or elsewhere. We feel they are consistent with the TVA Act, and would guarantee that the benefits of economic development activities would be more equitably shared. Economic development programs should:

* be conceived and executed as democratically as possible (among other things, this means opening up the process by which development agencies conduct their business);
* be based on the region's own natural, human and capital resources and, where appropriate, directed toward the expansion of in-region markets;
* focus on socially useful goods and services that meet the basic human needs and improve the quality of life;
* encourage local control and democratic management through ownership forms that include co-operatives, community development corporations, and other worker and/or community owned structures;
* create safe jobs at decent wages while protecting the environment;
* maximize employment potential by focussing on labor intensive enterprises and maximize fairness and efficiency by encouraging workers themselves to shape the design, use and rate of introduction of new technologies;
* upgrade existing skills training;
* be part of an ongoing effort to replace the prevailing

system of industrial recruitment incentives with a system of controls and compacts formalizing broad agreements among the states; and

* distribute both costs and benefits of development efforts so that neither are skewed disproportionately to certain geographic locations, segments of the population, etc.

The Tennessee Valley Energy Coalition views TVA as a potentially invaluable resource for coordinated, innovative economic development in the Valley. The agency has been here for over fifty years. Its experience in working with the people of the Valley, the contacts it has established with state, local and private officials, and its knowledge of the demographics of the region would be impossible to replace. We view economic development as a process rather than as a set of programs. As such, the continuity TVA can offer is of prime importance.

The knowledge and data acquired over the last fifty years allows TVA to effectively assess and project economic trends and develop programs which both allow local communities to be prepared for development possibilities and train or retrain local workers so the human resources are there.

If continuity in the process is of vital importance, so too is the authority to carry out such programs. TVA has the legal authority and the organizational resources to experiment with a broad range of alternative economic development programs. Although all experiments may not be successful, it has traditionally been the role of government to undertake those demonstration projects that are initially too risky for private enterprise.

Finally, as programs are being developed and implemented, it is important that the people most impacted by the programs be included. As a federal agency, TVA has the means and the responsibility to assure that there is effective citizen participation at every step of the process so that programs do not benefit only an economic elite, but truly benefit all people.

The Tennessee Valley Energy Coalition urges you to restore funding to TVA's appropriated budget, sufficient to permit the agency to continue moving forward on the mandate established so long ago and needed so much today. For our part, as a valley-wide citizens' organization, we will continue to keep sight of that original mandate and press for greater citizen involvement in all aspects of TVA's mission.

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